

STATUTES AND RULES
OF THE
MICHIGAN COMMISSION ON
LAW ENFORCEMENT
STANDARDS



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COMMISSION ON LAW ENFORCEMENT STANDARDS ACT
Act 203 of 1965

AN ACT to provide for the creation of the commission on law enforcement standards; to prescribe its membership, powers, and duties; to prescribe the reporting responsibilities of certain state and local agencies; to provide for additional costs in criminal cases; to provide for the establishment of the law enforcement officers training fund; and to provide for disbursement of allocations from the law enforcement officers training fund to local agencies of government participating in a police training program.

History: 1965, Act 203, Eff. Jan. 1, 1966;-Am. 1998, Act 237, Imd. Eff. July 3, 1998.

The People of the State of Michigan enact:

28.601 Short title.

Sec. 1. This act shall be known and may be cited as the “commission on law enforcement standards act”.

Compiler’s note: For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

Transfer of powers: See MCL 16.257.

28.602 Definitions.

Sec. 2. As used in this act:

- (a) “Certificate” means a numbered document issued by the commission to a person who has received certification under this act.
- (b) “Certification” means either of the following:
 - (i) A determination by the commission that a person meets the law enforcement officer minimum standards to be employed as a commission certified law enforcement officer and that the person is authorized under this act to be employed as a law enforcement officer.
 - (ii) A determination by the commission that a person was employed as a law enforcement officer before January 1, 1977 and that the person is authorized under this act to be employed as a law enforcement officer.
- (c) “Commission” means the commission on law enforcement standards created in section 3.
- (d) “Contested case” means that term as defined in section 3 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.203.
- (e) “Executive director” means the executive director of the commission appointed under section 12.
- (f) “Felony” means a violation of a penal law of this state or another state that is either of the following:
 - (i) Punishable by a term of imprisonment greater than 1 year.
 - (ii) Expressly designated a felony by statute.
- (g) “Fund” means the law enforcement officers training fund created in section 13.
- (h) “Law enforcement officer minimum standards” means standards established by the commission under this act that a person must meet to be eligible for certification under section 9a(1).
- (i) “Law enforcement officer of a Michigan Indian tribal police force” means a regularly employed member of a police force of a Michigan Indian tribe who is appointed pursuant to former 25 CFR 12.100 to 12.103.
- (j) “Michigan Indian tribe” means a federally recognized Indian tribe that has trust lands located within this state.
- (k) “Multicounty metropolitan district” means an entity authorized and established pursuant to state law by 2 or more counties with a combined population of not less than 3,000,000, for the purpose of cooperative planning, promoting, acquiring, constructing, owning, developing, maintaining, or operating parks.

(l) "Police officer" or "law enforcement officer" means, unless the context requires otherwise, any of the following:

(i) A regularly employed member of a law enforcement agency authorized and established pursuant to law, including common law, who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of this state. Police officer or law enforcement officer does not include a person serving solely because he or she occupies any other office or position.

(ii) A law enforcement officer of a Michigan Indian tribal police force, subject to the limitations set forth in section 9(3).

(iii) The sergeant at arms or any assistant sergeant at arms of either house of the legislature who is commissioned as a police officer by that respective house of the legislature as provided by the legislative sergeant at arms police powers act, 2001 PA 185, MCL 4.381 to 4.382.

(iv) A law enforcement officer of a multicounty metropolitan district, subject to the limitations of section 9(7).

(v) A county prosecuting attorney's investigator sworn and fully empowered by the sheriff of that county.

(vi) Until December 31, 2007, a law enforcement officer of a school district in this state that has a membership of at least 20,000 pupils and that includes in its territory a city with a population of at least 180,000 as of the most recent federal decennial census.

(vii) A fire arson investigator from a fire department within a city with a population of not less than 750,000 who is sworn and fully empowered by the city chief of police.

(m) "Rule" means a rule promulgated pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

28.603 Commission on law enforcement standards; creation; membership; terms.

Sec. 3. (1) The commission on law enforcement standards is created to carry out the intent of this act.

(2) The commission consists of the following 11 members:

(a) The attorney general, or his or her designated representative.

(b) The director of the department of state police, or his or her designated representative.

(c) Nine members appointed by the governor, with the advice and consent of the senate, as follows:

(i) Three individuals selected from a list of 6 active voting members of and submitted by the Michigan association of chiefs of police or its successor organization.

(ii) Three individuals selected from a list of 6 elected sheriffs submitted by the Michigan sheriffs' association or its successor organization.

(iii) One individual selected from a list of 3 names submitted by the Michigan chapter of the fraternal order of the police or its successor organization.

(iv) One individual selected from a list of 3 names submitted by the police officers association of Michigan or its successor organization.

(v) One individual selected from a list of 3 individuals submitted by the Detroit police officers associations or their successor organizations.

(d) An individual selected under subdivision (c) shall serve as a commission member only while serving as a member of the respective organizations in subparagraphs (i) to (v).

(3) The terms of the members of the law enforcement officers training council expire on the date that all members of the commission on law enforcement standards are appointed.

28.604 Commission on law enforcement standards; terms; vacancies; reappointment.

Sec. 4. (1) Except as otherwise provided in this subsection, members of the commission appointed under section 3(2)(c) shall hold office for a term of 3 years. Of the members initially appointed from the list of nominees submitted by the Michigan association of chiefs of police, 1 member shall be appointed for a term of 3 years, 1 member shall be appointed for a term of 2 years, and 1 member shall be appointed for a term of 1 year.

Of the members initially appointed from the list of nominees submitted by the Michigan sheriffs' association, 1 member shall be appointed for a term of 3 years, 1 member shall be appointed for a term of 2 years, and 1 member shall be appointed for a term of 1 year.

(2) A vacancy on the commission caused by expiration of a term or termination of a member's official position in law enforcement shall be filled in the same manner as the original appointment.

(3) A member appointed to fill a vacancy created other than by expiration of a term shall be appointed for the unexpired term of the member who he or she is to succeed in the same manner as the original appointment. A member may be reappointed for additional terms.

28.605 Commission on law enforcement standards; officers; terms; limitations of power; disqualification from public office or employment.

Sec. 5. (1) The commission shall elect from among its members a chairperson and a vice-chairperson who shall serve for 1-year terms and who may be reelected.

(2) Membership on the commission does not constitute holding a public office, and members of the commission are not required to take and file oaths of office before serving on the commission.

(3) The commission does not have the right to exercise any portion of the sovereign power of the state.

(4) A member of the commission is not disqualified from holding any public office or employment by reason of his or her appointment or membership on the commission and shall not forfeit any public office or employment because of his or her appointment to the commission, notwithstanding any general, special, or local law, ordinance, or city charter.

28.606 Commission on law enforcement standards; procedures and requirements; conducting business at public meeting; notice.

Sec. 6. (1) The commission shall meet not less than 4 times in each year and shall hold special meetings when called by the chairperson or, in the absence of the chairperson, by the vice-chairperson. A special meeting of the commission shall be called by the chairperson upon the written request of 5 members of the commission.

(2) The commission shall establish its own procedures and requirements with respect to quorum, place and conduct of its meetings, and other matters.

(3) The commission's business shall be conducted in compliance with the open meetings act, 1976 PA 267, MCL 15.261 to 15.275. Public notice of the time, date, and place of the meeting shall be given in the manner required by the open meetings act, 1976 PA 267, MCL 15.261 to 15.275.

28.607 Commission on law enforcement standards; annual report to governor.

Sec. 7. The commission shall make an annual report to the governor that includes pertinent data regarding the law enforcement officer minimum standards and the degree of participation of municipalities in the training programs.

28.608 Commission members; compensation; expenses.

Sec. 8. The members of the commission shall serve without compensation. The members of the commission are entitled to their actual expenses in attending meetings and in the performance of their official duties.

28.609 Minimum standards; rules; exceptions; factors and special requirements; waiver; certification; officer called to armed forces active duty; authority of law enforcement officer of Michigan Indian tribal police force; waiver from minimum standards regarding training programs.

Sec. 9. (1) The commission shall promulgate rules to establish law enforcement officer minimum standards. The rules do not apply to a member of a sheriff's posse or a police auxiliary temporarily performing his or her duty under the direction of the sheriff or police department. In promulgating the law enforcement officer minimum standards, the commission shall give consideration to the varying factors and special requirements of

local police agencies. The law enforcement officer minimum standards shall include all of the following:

(a) Minimum standards of physical, educational, mental, and moral fitness that govern the recruitment, selection, appointment, and certification of law enforcement officers.

(b) Minimum courses of study, attendance requirements, and instructional hours required at approved police training schools.

(c) Minimum basic training requirements that a person, excluding sheriffs, shall complete before being eligible for certification under section 9a(1).

(2) If a person's certification under section 9a(1) becomes void under section 9a(4)(b), the commission shall waive the requirements described in subsection (1)(b) for certification of the person under section 9a(1) if 1 or more of the following apply:

(a) The person has been employed 1 year or less as a commission certified law enforcement officer and is again employed as a law enforcement officer within 1 year after discontinuing employment as a commission certified law enforcement officer.

(b) The person has been employed more than 1 year but less than 5 years as a commission certified law enforcement officer and is again employed as a law enforcement officer within 18 months after discontinuing employment as a commission certified law enforcement officer.

(c) The person has been employed 5 years or more as a commission certified law enforcement officer and is again employed as a law enforcement officer within 2 years after discontinuing employment as a commission certified law enforcement officer.

(d) The person has successfully completed the mandatory training and has been continuously employed as a law enforcement officer, but through no fault of that person the employing agency failed to obtain certification for that person as required by this act.

(3) A commission certified law enforcement officer who is a member of any of the reserve components of the United States armed forces and who is called to active duty in the armed forces is not considered to have discontinued his or her employment as a commission certified law enforcement officer under section 9a(4)(b). The person's certification under section 9a(1) shall not become void during that term of active military service. However, the certification of a certified law enforcement officer described in this subsection may be revoked under section 9b if the officer committed an offense during the period of active duty in the armed forces that resulted in a conviction enumerated in section 9b(1). As used in this subsection, "reserve components of the United States armed forces" means that term as defined in section 2 of the military family relief fund act, 2004 PA 363, MCL 35.1212. This subsection does not apply to a commission certified law enforcement officer who volunteers for a term of active military service or who voluntarily extends a term of active military service that began when he or she was called to active duty. This subsection does not apply to a commission certified law enforcement officer who is dishonorably discharged from a term of active military service.

(4) The commission shall promulgate rules with respect to all of the following:

(a) The categories or classifications of advanced in-service training programs for commission certified law enforcement officers and minimum courses of study and attendance requirements for the categories or classifications.

(b) The establishment of subordinate regional training centers in strategic geographic locations in order to serve the greatest number of police agencies that are unable to support their own training programs.

(c) The commission's acceptance of certified basic police training and law enforcement experience received by a person in another state in fulfillment in whole or in part of the law enforcement officer minimum standards.

(d) The commission's approval of police training schools administered by a city, county, township, village, corporation, college, community college or university.

(e) The minimum qualifications for instructors at approved police training schools.

(f) The minimum facilities and equipment required at approved police training schools.

(g) The establishment of preservice basic training programs at colleges and universities.

(h) Acceptance of basic police training and law enforcement experience received by a person in fulfillment in

whole or in part of the law enforcement officer minimum standards prepared and published by the commission if both of the following apply:

(i) The person successfully completed the basic police training in another state or through a federally operated police training school that was sufficient to fulfill the minimum standards required by federal law to be appointed as a law enforcement officer of a Michigan Indian tribal police force.

(ii) The person is or was a law enforcement officer of a Michigan Indian tribal police force for a period of 1 year or more.

(5) Except as otherwise provided in this section, a regularly employed person employed on or after January 1, 1977 as a member of a police force having a full-time officer is not empowered to exercise all the authority of a peace officer in this state, or be employed in a position for which the authority of a peace officer is conferred by statute, unless the person has received certification under section 9a(1).

(6) A law enforcement officer employed before January 1, 1977 may continue his or her employment as a law enforcement officer and participate in training programs on a voluntary or assigned basis but failure to obtain certification under section 9a(1) or (2) is not grounds for dismissal of or termination of that employment as a law enforcement officer. A person who was employed as a law enforcement officer before January 1, 1977 who fails to obtain certification under section 9a(1) and who voluntarily or involuntarily discontinues his or her employment as a law enforcement officer may be employed as a law enforcement officer if he or she was employed 5 years or more as a law enforcement officer and is again employed as a law enforcement officer within 2 years after discontinuing employment as a law enforcement officer.

(7) A law enforcement officer of a Michigan Indian tribal police force is not empowered to exercise the authority of a peace officer under the laws of this state and shall not be employed in a position for which peace officer authority is granted under the laws of this state unless all of the following requirements are met:

(a) The tribal law enforcement officer is certified under this act.

(b) The tribal law enforcement officer is 1 of the following:

(i) Deputized by the sheriff of the county in which the trust lands of the Michigan Indian tribe employing the tribal law enforcement officer are located, or by the sheriff of any county that borders the trust lands of that Michigan Indian tribe, pursuant to section 70 of 1846 RS 14, MCL 51.70.

(ii) Appointed as a police officer of the state or a city, township, charter township, or village that is authorized by law to appoint individuals as police officers.

(c) The deputation or appointment of the tribal law enforcement officer described in subdivision (b) is made pursuant to a written contract that includes terms the appointing authority under subdivision (b) may require between the state or local law enforcement agency and the tribal government of the Michigan Indian tribe employing the tribal law enforcement officer.

(d) The written contract described in subdivision (c) is incorporated into a self-determination contract, grant agreement, or cooperative agreement between the United States secretary of the interior and the tribal government of the Michigan Indian tribe employing the tribal law enforcement officer pursuant to the Indian self-determination and education assistance act, Public Law 93-638, 88 Stat. 2203.

(8) A law enforcement officer of a multicounty metropolitan district, other than a law enforcement officer employed by a law enforcement agency created under the public body law enforcement agency act, is not empowered to exercise the authority of a peace officer under the laws of this state and shall not be employed in a position for which peace officer authority is granted under the laws of this state unless all of the following requirements are met:

(a) The law enforcement officer has met or exceeded minimum standards for certification under this act.

(b) The law enforcement officer is deputized by the sheriff or sheriffs of the county or counties in which the land of the multicounty metropolitan district employing the law enforcement officer is located and in which the law enforcement officer will work, pursuant to section 70 of 1846 RS 14, MCL 51.70.

(c) The deputation or appointment of the law enforcement officer is made pursuant to a written agreement that includes terms the deputizing authority under subdivision (b) may require between the state or local law

enforcement agency and the governing board of the multicounty metropolitan district employing the law enforcement officer.

(d) The written agreement described in subdivision (c) is filed with the commission.

(9) A public body that creates a law enforcement agency under the public body law enforcement agency act and that employs 1 or more law enforcement officers certified under this act shall be considered to be a law enforcement agency for purposes of section 9d.

(10) The commission may establish an evaluation or testing process, or both, for granting a waiver from the law enforcement officer minimum standards regarding training requirements to a person who has held a certificate under this act and who discontinues employment as a law enforcement officer for a period of time exceeding the time prescribed in subsection (2)(a) to (c) or (6), as applicable.

28.609a Employment as law enforcement officer; certification requirements.

Sec. 9a. (1) The commission shall grant certification to a person who meets the law enforcement officer minimum standards at the time he or she is employed as a law enforcement officer.

(2) The commission shall grant certification to a person who was employed as a law enforcement officer before January 1, 1977 and who fails to meet the law enforcement officer minimum standards if the person is authorized to be employed as a law enforcement officer under section 9.

(3) The commission shall grant certification to an elected sheriff, which certification shall remain valid only while that sheriff is in office.

(4) Certification granted to a person under this act is valid until either of the following occurs:

(a) The certification is revoked.

(b) The certification becomes void because the person discontinues his or her employment as a commission certified law enforcement officer.

(5) The commission shall issue a certificate to a person who has received certification. A certificate issued to a person remains the property of the commission.

(6) Upon request of the commission, a person whose certification is revoked, or becomes void because the person discontinues his or her employment as a commission certified law enforcement officer, shall return to the commission the certificate issued to the person. A violation of this subsection is a misdemeanor, punishable by imprisonment for 90 days, a fine of not more than \$500.00, or both.

28.609b Revocation or suspension of certification; judicial review; jurisdiction; subpoena.

Sec. 9b. (1) The commission shall promulgate rules that provide for the revocation of certification of a law enforcement officer for 1 or more of the following:

(a) Conviction by a judge or jury of a felony.

(b) Conviction by a plea of guilty to a felony.

(c) Conviction by a plea of no contest to a felony.

(d) Making a materially false statement or committing fraud during the application for certification process.

(2) The rules shall provide for the suspension of a law enforcement officer from use of the law enforcement information network in the event the law enforcement officer wrongfully discloses information from the law enforcement information network.

(3) Except as provided in subsection (4), if the commission issues a final decision or order to revoke the certification of a law enforcement officer, that decision or order is subject to judicial review as provided in the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(4) A petition for judicial review of a final decision or order of the commission revoking the certification of a law enforcement officer shall be filed only in the circuit court for Ingham county.

(5) The commission may issue a subpoena in a contested case to revoke a law enforcement officer's certification. The subpoena shall be issued as provided in section 73 of the administrative procedures act of 1969, 1969 PA

306, MCL 24.273.

28.609c Investigation of alleged violation; powers of commission.

Sec. 9c. (1) The commission may investigate alleged violations of this act or rules promulgated under this act.

(2) In conducting an investigation, the commission may hold hearings, administer oaths, issue subpoenas, and order testimony to be taken at a hearing or by deposition. A hearing held under this section shall be conducted in accordance with chapter 4 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.271 to 24.287. A final decision order issued by the commission is subject to judicial review as provided by chapter 6 of the administrative procedures act of 1969, 1969 PA 306, MCL 24.301 to 24.306.

(3) The commission may issue a subpoena to do either of the following:

- (a) Compel the attendance of a witness to testify at a hearing or deposition and give testimony.
- (b) Produce books, papers, documents, or other items.

(4) If a subpoena issued by the commission is not obeyed, the commission may petition the circuit court to require the attendance of a witness or the production of books, papers, documents, or other items. The circuit court may issue an order requiring a person to appear and give testimony or produce books, papers, documents, or other items. Failure to obey the order of the circuit court may be punished by the court as a contempt of court.

28.609d Maintenance of employment history record; reporting commencement or termination of employment date.

Sec. 9d. (1) A law enforcement agency shall maintain an employment history record for each law enforcement officer employed by the law enforcement agency in the manner prescribed by the commission.

(2) A law enforcement agency shall report the date on which each person commences or terminates employment as a law enforcement officer for the law enforcement agency in the manner prescribed by the commission.

28.610 Agreements of commission with colleges, universities, or other agencies.

Sec. 10. The commission may enter into agreements with colleges, universities, or other agencies to carry out the intent of this act.

28.611 Commission on law enforcement standards; powers generally; disposition of fees.

Sec. 11. (1) The commission may do all of the following:

(a) Visit and inspect a police training school, or examine the curriculum or training procedures of a police training school, for which application for approval of the school has been made.

(b) Issue certificates of approval to police training schools.

(c) Authorize the issuance of certificates of graduation or diplomas by approved police training schools to law enforcement officers who have satisfactorily completed minimum courses of study.

(d) Cooperate with state, federal, and local police agencies to establish and conduct local or area schools, or regional training centers for instruction and training of law enforcement officers of this state and of cities, counties, townships, and villages.

(e) Make recommendations to the legislature on matters pertaining to qualification and training of law enforcement officers.

(f) Establish preservice basic training programs at colleges and universities.

(g) Require an examination for law enforcement officer certification under section 9a(1).

(h) Issue a waiver as provided for under section 9(7), or 9(3)(c), or 9(3)(h).

(i) Establish and charge a fee to recover the cost of testing and training individuals who are not employed by a Michigan law enforcement agency.

(j) Establish and charge a fee to recover the cost of issuing and reissuing certificates for individuals who are certified as law enforcement officers in this state.

(2) Fees charged under subsection (1)(i) and (j) shall be deposited in the law enforcement officer training fund created in section 13.

28.612 Executive director; appointment; term; duties; compensation.

Sec. 12. The commission shall appoint an executive director of the commission. The executive director shall hold office at the pleasure of the commission. The executive director shall perform the functions and duties that are assigned to him or her by the commission. The executive director shall receive compensation and reimbursement for expenses as provided by appropriation.

28.613 Law enforcement officers training fund; creation; appropriations.

Sec. 13. There is created in the state treasury a law enforcement officers training fund, from which, the legislature shall appropriate sums deemed necessary for the purposes of this act.

28.614 Law enforcement officers training fund; payment of amounts appropriated; reimbursement of training costs and living expenses; reduction of amounts; prohibited allocations; limitation.

Sec. 14. (1) The amounts annually appropriated by the legislature from the law enforcement officers training fund shall be paid by the state treasurer as follows:

(a) In accordance with the accounting laws of the state upon certification of the executive director to reimburse an amount not to exceed the training costs incurred for each officer meeting the recruitment standards prescribed pursuant to this act during the period covered by the allocation, plus an amount not to exceed the necessary living expenses incurred by the officer that are necessitated by training requiring that he or she be away from his or her residence overnight.

(b) For the maintenance and administration of law enforcement officer testing and certification provided for by this act.

(2) If the money in the fund to be appropriated by the legislature for the training and living expenses described in subsection (1) are insufficient to allocate the amount for training and living purposes, the amount shall be reduced proportionately.

(3) An allocation shall not be made from the fund under this section to a training agency or to a city, county, township, or village or agency of the state that has not, throughout the period covered by the allocation, adhered to the standards established by the commission as applicable to either training or to personnel recruited or trained by the training agency, city, county, township, or village or agency of the state during that period.

(4) Expenditures from the fund to be appropriated by the legislature for law enforcement officer testing and certification described in subsection (1) shall not exceed the revenue generated from fees collected pursuant to section 11(1)(i) and (j).

28.615 Application for reimbursement; contents.

Sec. 15. A training agency, city, county, township, or village or state agency that desires to receive reimbursement pursuant to section 14 shall apply to the commission for the reimbursement. The application shall contain information requested by the commission.

28.616 Effective date.

Sec. 16. This act shall take effect on January 1, 1966.

EXECUTIVE REORGANIZATION ORDER (EXCERPT)
E.R.O. No. 2001-2

28.621 Creation of new Michigan commission on law enforcement standards within department of state police as type I agency; transfer of powers and duties of Michigan justice training commission, Michigan justice training fund, and commission on law enforcement standards and law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer.

WHEREAS, Article V, Section 1, of the Constitution of the state of Michigan of 1963 vests the executive power in the Governor; and

WHEREAS, Article V, Section 2, of the Constitution of the State of Michigan of 1963 empowers the Governor to make changes in the organization of the Executive Branch or in the assignment of functions among its units which he considers necessary for efficient administration; and

WHEREAS, the Michigan Justice Training Commission and the Michigan Justice Training Fund were created within the Department of Management and Budget by Act No. 302 of the Public Acts of 1982, as amended, being Section 18.421 et seq. of the Michigan Compiled Laws; and subsequently transferred to the Department of State Police by Executive Order 1993-11, being Section 18.431 of the Michigan Compiled Laws; and

WHEREAS, the Michigan Law Enforcement Officers Training Council (later renamed the Commission on Law Enforcement Standards by Act No. 237 of the Public Acts of 1998, which amended Section 28.601 et seq. of the Michigan Compiled Laws) and the Law Enforcement Officers Training Fund were created under Act No. 203 of the Public Acts of 1965, as amended, being section 28.601 et seq. of the Michigan Compiled Laws; and subsequently transferred by a Type I transfer to the Department of State Police by Act No. 407 of the Public Acts of 1965, being Section 16.257 of the Michigan Compiled Laws; and

WHEREAS, the powers, functions, duties and responsibilities assigned to the Michigan Justice Training Commission, the Michigan Justice Training Fund, the Commission on Law Enforcement Standards, and the Law Enforcement Officers Training Fund can be more effectively carried out by a new Michigan Commission on Law Enforcement Standards; and

WHEREAS, it is necessary in the interests of efficient administration and effectiveness of government to effect changes in the organization of the Executive Branch of government.

NOW, THEREFORE, I, John Engler, Governor of the State of Michigan, pursuant to the powers vested in me by the Constitution of the State of Michigan of 1963 and the laws of the State of Michigan, do hereby order the following:

I. NEW MICHIGAN COMMISSION ON LAW ENFORCEMENT STANDARDS

A. The new Michigan Commission on Law Enforcement Standards is hereby created as a Type I agency within the Department of State Police.

B. All the statutory authority, powers, duties, functions and responsibilities of the Michigan Justice Training Commission, the Michigan Justice Training Fund, the Commission on Law Enforcement Standards and the Law Enforcement Officers Training Fund including those involving rulemaking, grant awards and annual distributions and including, but not limited to, the statutory authority, powers, duties, functions and responsibilities set forth in:

1. The Commission on Law Enforcement Standards Act, Act No. 203 of the Public Acts of 1965, as amended, being Section 28.601 et seq. of the Michigan Compiled Laws;

2. The Michigan Justice Training Commission and Michigan Justice Training Fund Act, Act No. 302 of the Public Acts of 1982, as amended, being Section 18.421 et seq. of the Michigan Compiled Laws; are hereby transferred to the new Michigan Commission on Law Enforcement Standards by a Type III transfer, as defined by Section 3 of Act No. 380 of the Public Acts of 1965, as amended, being Section 16.103 of the Michigan Compiled Laws.

C. The new Michigan Commission on Law Enforcement Standards shall consist of fifteen (15) members as

follows:

1. The Attorney General, or the designated representative of the Attorney General;
2. The Director of the Department of State Police, or the Director's designated representative who is a Michigan State Police Officer;
3. The Chief of the Police Department located in a city with a population of more than 750,000, or the Chief's designated representative who is a command officer with that department; and
4. Twelve (12) members appointed by the governor, with the advice and consent of the Senate, as follows:
 - a. Three (3) individuals selected from a list of nine (9) active voting members of and submitted by the Michigan Association of Chiefs of Police or its successor organization;
 - b. Three (3) individuals selected from a list of nine (9) elected sheriffs submitted by the Michigan Sheriffs' Association or its successor organization;
 - c. One (1) individual selected from a list of three (3) individuals submitted by the Prosecuting Attorneys' Association of Michigan or its successor organization;
 - d. One (1) individual selected from a list of three (3) individuals submitted by the Criminal Defense Attorneys of Michigan or its successor organization;
 - e. One (1) individual selected from a list of three (3) individuals submitted by the Michigan State Police Troopers Association or its successor organization;
 - f. One (1) individual selected from a list of three (3) individuals submitted by the Michigan Chapter of the Fraternal Order of Police or its successor organization;
 - g. One (1) individual selected from a list of three (3) individuals submitted by the Police Officers Association of Michigan or its successor organization;
 - h. One (1) individual selected from a list of three (3) individuals submitted by a police association representing officers employed by one police agency employing more than 15 percent of the police officers in this state or their successor organizations; and
 - i. The Governor may appoint any individual meeting the membership requirements of the organizations listed in 4. a. through 4. h. in the event that an organization required to submit a list of potential candidates fails to submit a list:
 - (1) at least 30 days prior to a vacancy created by the expiration of a term; or
 - (2) within 30 days of the effective date of any other vacancy.
5. An individual selected under subdivision 4 shall serve as a commission member only while serving as a member of the respective organizations in subparagraphs 4. a. through 4. h.
6. Except as otherwise provided in this subdivision, members of the Commission appointed under subdivision 4 shall hold office for a term of three (3) years. However:
 - a. Of the members initially appointed from the list of nominees submitted by the Michigan Association of Chiefs of Police, one (1) member shall be appointed for a term of three (3) years, one (1) member shall be appointed for a term of two (2) years, and one (1) member shall be appointed for a term of one (1) year.
 - b. Of the members initially appointed from the list submitted by the Michigan Sheriffs' Association, one (1) member shall be appointed for a term of three (3) years, one (1) member shall be appointed for a term of two (2) years, and one (1) member shall be appointed for a term of one (1) year.
 - c. The members initially appointed from the list of nominees submitted by the Michigan State Police Troopers Association and the Michigan Chapter of the Fraternal Order of Police shall be appointed for a term of two (2) years.
 - d. The members initially appointed from the list of nominees submitted by the Police Officers Association of Michigan and the police association representing officers employed by one police agency employing more than 15 percent of the police officers in this state shall be appointed for a term of one (1) year.
7. A vacancy on the commission caused by the expiration of a term or termination of the member's official position in law enforcement shall be filled in the same manner as the original appointment.
8. A member appointed to fill a vacancy created other than by expiration of a term shall be appointed for the

unexpired term of the member who he or she is to succeed in the same manner as the original appointment. A member may be reappointed for additional terms.

D. The new Michigan Commission on Law Enforcement Standards, in addition to exercising the statutory authority, powers, duties, functions and responsibilities transferred to it by this order, shall focus its activities in order to accomplish the following objectives involving law enforcement organizations and officers:

1. Increase professionalism;
2. Increase the number of law enforcement organizations that offer formal in-service training and increase the number of law enforcement officers who receive formal in-service training;
3. Institute law enforcement in-service training standards applicable to all law enforcement in-service training in Michigan;
4. Implement a web-based information system that will allow the Commission to accomplish its goals and communicate with Michigan law enforcement organizations in a more efficient manner, and;
5. Ensure that grants awarded by the Commission to Michigan law enforcement organizations advance the objectives listed in subparagraphs D.1. through D.3.

II. MISCELLANEOUS

A. The Director of the Department of State Police shall provide executive direction and supervision for the implementation of all transfers of authority made under this Order.

B. The Executive Director of the new Michigan Commission on Law Enforcement Standards shall administer the assigned functions transferred by this Order in such ways as to promote efficient administration and shall make internal organizational changes as may be administratively necessary to complete the realignment of responsibilities prescribed by this Order.

C. The Director of the Department of State Police and the Executive Director of the new Michigan Commission on Law Enforcement Standards shall immediately initiate coordination to facilitate the transfer and shall develop a memorandum of record identifying any pending settlements, issues of compliance with applicable federal and State laws and regulations, or obligations to be resolved by the Michigan Justice Training Commission, the Michigan Justice Training Fund, the Commission on Law Enforcement Standards and the Law Enforcement Officers Training Fund.

D. All records, personnel, property and unexpended balances of appropriations, allocations and other funds used, held, employed, available or to be made available to the Michigan Justice Training Commission, the Michigan Justice Training Fund, the Commission on Law Enforcement Standards and the Law Enforcement Officers Training Fund for the activities, powers, duties, functions and responsibilities transferred by this Order are hereby transferred to the new Michigan Commission on Law Enforcement Standards.

E. The State Budget Director shall determine and authorize the most efficient manner possible for handling financial transactions and records in the state's financial management system for the remainder of the fiscal year.

F. All rules, orders, contracts and agreements relating to the assigned functions lawfully adopted prior to the effective date of this Order shall continue to be effective until revised, amended or repealed.

G. Any suit, action or other proceeding lawfully commenced by, against or before any entity affected by this Order shall not abate by reason of the taking effect of this Order. Any suit, action or other proceeding may be maintained by, against or before the appropriate successor of any entity affected by this Order.

H. The invalidity of any portion of this Order shall not affect the validity of the remainder thereof. In fulfillment of the requirement of Article V, Section 2, of the Constitution of the state of Michigan of 1963, the provisions of this Executive Order shall become effective November 1, 2001

History: 2001, E.R.O. No. 2001-2, Eff. Nov. 1, 2001

**MICHIGAN DEPARTMENT OF STATE POLICE
MICHIGAN COMMISSION ON LAW ENFORCEMENT STANDARDS
LAW ENFORCEMENT STANDARDS AND TRAINING**

Filed with the Secretary of State on June 9, 2006

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the Michigan commission on law enforcement standards by section 9 of 1965 PA 203, by section 9 of 1965 PA 380, and by Executive Reorganization Order 2001-2, MCL 28.621.)

PART 1. DEFINITIONS

R 28.14101 Definitions; A to D.

Rule 101. As used in these rules:

- (a) “Act” means 1965 PA 203, MCL 28.601.
- (b) “Activate as a licensed law enforcement officer” means a recognized law enforcement agency complies with all of the requirements in R 28.14205 to R 28.14207.
- (c) “Applicant” means a person seeking employment as a licensed law enforcement officer empowered to enforce all of the general criminal laws of this state.
- (d) “Approved law enforcement training” means recruit or in-service law enforcement training conducted under the authority of either 1965 PA 203, MCL 28.601 et seq., or 1982 PA 302, MCL 18.421 et seq.
- (e) “Basic law enforcement training academy” means a city, county, township, village, corporation, college, community college, university, or state agency that is approved by the commission to offer the basic law enforcement training program.
- (f) “Basic law enforcement training program” means the entire commission approved process by which a person is screened, trained, and qualified for activation as a law enforcement officer.
- (g) “Commission” means the 15 member Michigan commission on law enforcement standards or, by express delegation, its executive director and staff.
- (h) “Contested case” means the same as the term is defined in section 3 of the Administrative Procedures Act of 1969, MCL 24.203.
- (i) “Course of study” means the total instruction that a basic law enforcement training academy is approved to offer a recruit before qualifying the recruit for licensing.

R 28.14102 Definitions; E to L.

Rule 102. As used in these rules:

- (a) “Employed recruit” means a law enforcement officer candidate who is employed by a recognized law enforcement agency and who is enrolled in an approved basic law enforcement training academy for the purpose of training in order to become eligible to be licensed as a law enforcement officer employed by the law enforcement agency.
- (b) “Employing agency” means police departments, sheriff offices, the Michigan department of state police, or any law enforcement agency authorized and established pursuant to state statute.
- (c) “Employment” means performing a service or labor as a law enforcement officer to a recognized law enforcement agency in exchange for monetary compensation for all hours worked at not less than the federal minimum wage established in the Fair Labor Standards Act of 1938, as amended; 29 U.S.C. §206.
- (d) “Fully empowered law enforcement officer” means a law enforcement officer employed by a recognized

law enforcement agency, who has full authority to enforce the general criminal laws of this state conferred by a sworn oath of office, and who is licensed by the commission.

(e) “General criminal laws” means laws that classify an action as a misdemeanor or felony punishable by fine or imprisonment and have general applicability as opposed to regulation of a particular class.

(f) “Law enforcement agency” or “agency” means an entity authorized and established pursuant to a state statute that conveys police authority of the state of Michigan to the entity. Police authority includes the responsibility for the prevention and detection of crime and the enforcement of the general criminal laws.

(g) “License” means the numbered certificate issued by the commission to a person who has received certification as a law enforcement officer under the act, as provided in MCL 28.602.

(h) “Licensing examination” means the examination administered by the commission at the completion of the basic law enforcement training academy and the recognition of prior basic law enforcement training and experience program to determine whether a person has attained the minimum competencies required for licensing.

R 28.14103 Definitions; M to Z.

Rule 103. (1) As used in these rules:

(a) “MCOLES” means the 15 member Michigan commission on law enforcement standards.

(b) “MCOLES information and tracking network” means the commission’s web-enabled information system for the licensing, reporting, and tracking of personnel and training records for Michigan law enforcement officers.

(c) “Preservice recruit” means a person who complies with the requirements of R 28.14315 and enrolls at his or her own expense in an approved regional basic law enforcement training academy and who is not employed by a law enforcement agency.

(d) “Preservice college recruit” means a person who is enrolled in a preservice college basic law enforcement training academy.

(e) “Recognized law enforcement agency” means a law enforcement agency, as verified by the commission, that may activate a person as a law enforcement officer under the act.

(f) “Recruit” means a student or trainee who is enrolled in a basic law enforcement training academy.

(2) The terms defined in the act have the same meanings when used in these rules.

PART 2. SELECTION AND EMPLOYMENT STANDARDS

R 28.14201 Definitions.

Rule 201. As used in this part:

(a) “Licensing examination” means the mandated examination administered by the commission after the completion of the mandated basic recruit law enforcement training or the recognition of prior law enforcement training and experience program to determine competence required to practice law enforcement and developed in conformance with the following:

(i) The standards of the Society for Industrial and Organizational Psychology, Inc. that are in the publication entitled “Principles for Validation and Use of Personnel Selection Procedures,” (3rd ed., 1987). Copies of these standards may be purchased from the Society for Industrial and Organization Psychology, Inc, P.O. Box 87, Bowling Green, Ohio 43402 at a cost, as of the time of adoption of these rules, of \$7.50 each.

(ii) The standards of the American educational research association, the American psychological association, and the national council on measurement in education that are in the publication entitled “Standards for Educational and Psychological Testing” (1999). Copies of these standards may be purchased from Test Standards, P.O. Box 465, Hanover, Pennsylvania 17331, at a cost, as of the time of adoption of these rules, of \$31.95 each.

(iii) The standards of the equal employment opportunity commission that are in the publication entitled “Uniform Guidelines on Employee Selection Procedures” (1978). These standards are found at CFR, title 41,

chapter 60, part 60-3 and may be viewed and printed free of charge at the U. S. department of labor web site, www.dol.gov.

(b) “Reading and writing examination” means a job-related reading comprehension and writing skills examination developed in conformance with the standards cited in (a) (i) and (iii) in subrule (a) of this rule.

R 28.14202 Adoption by reference

Rule 202. (1) The standards cited in this rule are adopted by reference and are available for inspection at the commission offices, 7426 North Canal Road, Lansing, Michigan.

(a) The standards of the Society for Industrial and Organizational Psychology, Inc. that are in the publication entitled “Principles for Validation and Use of Personnel Selection Procedures,” (3rd ed., 1987). Copies of these standards may be purchased from the Society for Industrial and Organization Psychology, Inc, P.O. Box 87, Bowling Green, Ohio 43402 at a cost, as of the time of adoption of these rules, of \$7.50 each.

(b) The standards of the American educational research association, the American psychological association, and the national council on measurement in education that are in the publication entitled “Standards for Educational and Psychological Testing” (1999). Copies of these standards may be purchased from Test Standards, P.O. Box 465, Hanover, Pennsylvania 17331, at a cost, as of the time of adoption of these rules, of \$31.95 each.

(c) The standards of the equal employment opportunity commission that are in the publication entitled “Uniform Guidelines on Employee Selection Procedures” (1978). These standards are found at CFR, title 41, chapter 60, part 60-3 and may be viewed and printed free of charge at the U. S. department of labor web site, www.dol.gov.

R 28.14203 Non-medical selection qualifications.

Rule 203. A person selected to become a law enforcement officer under the act shall meet all of the following requirements:

- (a) Be a citizen of the United States.
- (b) Have attained the minimum age as established by the employing agency, which shall not be less than 18 years of age or as otherwise provided by law.
- (c) Have earned a high school diploma or have attained a passing score on the general education development test indicating a high school graduation level. Attainment of an associate or baccalaureate degree shall be evidence of having met this standard.
- (d) Have no prior felony convictions, or felony expungements and set asides.
- (e) Possess good moral character as determined by a favorable comprehensive background investigation covering school and employment records, home environment, and personal traits and integrity. Consideration shall be given to a history of, and the circumstances pertaining to, having been a respondent to a restraining or personal protection order. Consideration shall also be given to all law violations, including traffic and conservation law convictions, as indicating a lack of good moral character.
- (f) Possess a valid motor vehicle operator’s or chauffeur’s license from 1 of the 50 states, the district of Columbia, a possession or territory of the United States, or Canada. Michigan driving privileges shall not be in a state of suspension, revocation, or denial at the time of entry into an academy or activation as a law enforcement officer.
- (g) Read and write at a level necessary to perform the job of a law enforcement officer as determined by passing the commission’s reading and writing examination designed to test these skills or by passing an agency-certified examination as specified in R 28.14209(c). The provisions of this subdivision do not apply to any of the following persons:
 - (i) Any person licensed under the act.
 - (ii) Any person qualifying for the recognition of prior basic law enforcement training and experience program under R 28.14403 to R 28.14406.
- (h) Test negative for the illicit use of controlled substances under the following conditions:

(i) The process used to detect the presence of a controlled substance and the laboratory used to conduct the test shall be approved by the commission.

(ii) An applicant who tests positive, refuses to submit to a test, or fails to report for a test, shall not be eligible for training or licensing for 2 years after a positive test or the refusal to submit to the test. An applicant who tests positive may request an opportunity to show cause to the commission why the test results were not indicative of an illicit use of a controlled substance.

(i) Successfully complete the basic law enforcement course of study at a commission approved academy.

(j) Take and attain a passing score on the commission's licensing examination within 1 year of the completion of training. In the event of failure on the examination, 1 retest shall be allowed within the same 1-year period. Failure on the retest shall result in the need to repeat and successfully complete the basic course of study to again be eligible to take the licensing examination.

(k) If the commission denies a license, entry into a training program, or entry into the recognition of prior basic law enforcement training and experience program for cause, then that person is not eligible to reapply for 2 years, unless provided otherwise in these rules.

(l) The commission may establish time frames during which compliance with a standard in this rule by an applicant shall be valid.

R 28.14204 Medical selection qualifications.

Rule 204. A person selected to become a law enforcement officer pursuant to the provisions of the act shall meet all of the medical requirements in subdivisions (a) to (e) of this rule. A determination of compliance with the medical standards in this rule shall be made by a licensed physician, with the exception that a determination of compliance with subdivisions (a), (b), (c) and (e)(iii) of this rule shall be made as provided in each of the following:

(a) Possess normal visual functions at a level necessary to perform the job of a law enforcement officer as determined by complying with the provisions of this subdivision. All vision testing shall comply with the test manufacturer's specifications and protocols. The following determinations of compliance with this standard may be made by a licensed optometrist.

(i) Far visual acuity complying with 1 of the following:

(A) Acuity in each eye uncorrected of 20/20 or better.

(B) Acuity in each eye corrected to 20/20 or better.

(ii) Near visual acuity at a range of 10 to 20 inches complying with 1 of the following:

(A) Acuity in each eye uncorrected of 20/20 or better, reduced Snellen equivalent.

(B) Acuity in each eye corrected to 20/20, reduced Snellen equivalent.

(iii) Normal color vision as determined by testing and passing either of the following color vision tests. The use of refractive correction is permitted; however, the use of an x-chrom lens, or any other lens purported to enhance color perception, is prohibited.

(A) Pseudoisochromatic plates that have been approved by the commission.

(B) The Farnsworth dichotomous d-15 panel test.

(iv) The pseudoisochromatic plates shall be administered first, before the panel test. If an applicant passes the plates, no further color vision testing is required.

(v) Peripheral vision in each eye of 90° vertically and 120° horizontally.

(vi) Normal binocular vision as determined by testing and passing a stereopsis test to 80 seconds of stereoacuity, or better. Failure on the stereopsis test requires further testing to determine that diplopia is not present.

(b) Hear at a level necessary to perform the job of a law enforcement officer as determined by complying with subdivision (c) of this subrule. Throughout the testing specified in subdivision (c) of this subrule, the intensity of auditory stimuli shall be expressed in decibels relative to a normal hearing level as defined by the American national standards institute (ANSI) S3.6-1996, or more current ANSI standard. This standard is adopted by

reference and is available from the acoustical society of America at www.asa.aip.org for purchase at the time of the adoption of these rules at \$100 and are available for inspection at the commission offices at 106 West Allegan, Suite 600, Lansing, Michigan. The testing shall be performed by the following persons, as applicable:

(i) An audiologist at a hearing clinic accredited by the professional services board of the American speech-language-hearing association may do all testing in R 28.14204(c).

(ii) An audiologist who has a certificate of clinical competence from the American speech-language-hearing association or an audiologist who holds fellowship status in the American academy of audiology may do all of the testing in R 28.14204(c). The audiologist shall be licensed, if applicable.

(iii) A hearing conservationist certified by the council for accreditation in occupational hearing shall do only the testing in R 28.14204(c)(i).

(iv) A hearing aid specialist licensed by the Michigan department of licensing and regulatory affairs shall do only the testing in R 28.14204(c)(i).

(c) Comply with 1 of the following standards: Testing shall be done in the order listed. If an applicant passes 1 of the standards, then further testing is not required.

(i) Unaided audiometric testing on each ear that results in pure tone air conduction thresholds for each ear, as shown on the pure tone audiogram, of not poorer than a hearing level of 25 decibels at any of the following frequencies: 500, 1,000, 2,000, and 3,000 Hertz; and 45 decibels at 4,000 Hertz.

(ii) Unaided audiometric testing on each ear that results in all of the following:

(A) An unaided 4-frequency average pure tone threshold for each ear, as derived from the pure tone air conduction audiogram at 500, 1,000, 2,000, and 3,000 Hertz, of not poorer than a hearing level of 25 decibels, and a hearing threshold level at any single frequency of not poorer than 35 decibels.

(B) Unaided speech recognition scores of 90% or better in each ear, measured under audiometric earphones at 50 decibels in quiet, and using full lists of recorded phonetically balanced words that are age-appropriate.

(C) An unaided speech recognition score of 70% or better, measured for both ears at the same time in an audiometric sound field at a plus 5 decibel signal-to-noise ratio. For this measurement, speech stimuli and competing speech noise shall be presented through the same loudspeaker, or 2 loudspeakers stacked vertically, at zero degree azimuth. Speech stimuli shall be presented at 50 decibels using a full list of recorded phonetically balanced words that are age-appropriate.

(iii) Audiometric testing with 1 or both ears aided that results in all of the following:

(A) An aided 4-frequency average threshold for each ear, as derived from the sound field aided audiogram at 500, 1,000, 2,000, and 3,000 Hertz of not poorer than a hearing level of 25 decibels, and a hearing threshold level at any single frequency of not poorer than 35 decibels. Measurements shall be made monaurally in an audiometric sound field with the unaided (non-test) ear plugged or, when necessary, effectively masked. Test signals shall consist of either frequency-specific modulated tones or narrow band noise presented through a loudspeaker at zero degree azimuth, and results shall be expressed as aided hearing levels.

(B) Aided speech recognition scores of 90% or better in each ear measured at 50 decibels in quiet, and using full lists of recorded phonetically balanced words that are age appropriate. Measurements shall be made monaurally in an audiometric sound field with the loudspeaker at zero degree azimuth and the unaided (non-test) ear plugged or, when necessary, effectively masked.

(C) An aided speech recognition score of 70% or better, measured for both ears at the same time in an audiometric sound field at a plus 5 decibel signal-to-noise ratio. For this measurement, either 1 or both ears shall be fitted with a hearing aid, and, where only 1 ear has been fitted with a hearing aid, the unaided ear shall not be plugged or masked. For this measurement, speech stimuli and competing speech noise shall be presented through the same loudspeaker, or 2 loudspeakers stacked vertically, at zero degree azimuth. Speech stimuli shall be presented at 50 decibels using a full list of recorded phonetically balanced words that are age-appropriate.

(d) Be free from any of the following, which may impair the performance of the essential job functions of a law enforcement officer or which may endanger the lives of others or the law enforcement officer:

(i) Physical defects.

(ii) Chronic diseases.

(iii) Mental and emotional instabilities. The commission permits and may require the determination of compliance with this requirement be made by a board certified psychiatrist or a licensed psychologist.

(e) The commission may establish specific tests, procedures, and qualifications for use in determining compliance with the medical standards in R 28.14204 (a) to (e).

(f) If an initial examination indicates that a person may not comply with R 28.14204 (a) to (e), then the person may request a reexamination. The reexamination shall be done at the direction of the commission. The cost of the reexamination shall be the responsibility of the person or the employing agency.

(g) Except where specified otherwise, the results of any examination or test performed under this rule shall remain valid for not more than 180 days from the date of the examination.

(h) The commission may, after giving due consideration to the needs of agencies, academies, and potential recruits, establish and require the utilization of a list of approved health care providers to make a determination of compliance with this rule.

(i) The commission may establish time frames during which compliance with this rule shall be valid.

History: 2006 AACs; 2012 MR 9, Eff. May 2, 2012.

R 28.14205 Employing agency responsibilities; activation.

Rule 205. To activate an applicant, an employing agency shall do all of the following in the order listed:

(a) Submit to the commission for approval the compliance information specified in R 28.14206 or R 28.14207, as applicable, using the MCOLES information and tracking network.

(b) After receiving notice from the commission that compliance with the standards has been verified, employ and confer the authority to independently enforce all of the general criminal laws of this state on the officer as evidenced by an oath of office.

(c) Sign and mail to the commission the license activation report, which documents the conference of authority, the standards compliance verification affidavit printed from the MCOLES information and tracking network, and the applicant background affidavit.

R 28.14206 Employing agency responsibilities; employed recruits.

Rule 206. (1) Before sending a person to a basic law enforcement training academy, the employing agency shall do all of the following:

(a) Cause the applicant to complete a release of information statement for purposes of law enforcement licensing.

(b) Cause the applicant to complete the applicant background affidavit.

(c) Cause the applicant to be examined to determine that the applicant meets the medical standards in R 28.14204. A declaration of the applicant's medical history shall be made available to the examining physician and shall become a part of the background investigation.

(d) Cause the applicant to be fingerprinted and a search to be made of appropriate state and federal fingerprint files to disclose any criminal record within 180 days before the date of enrollment.

(e) Conduct an oral interview to determine the applicant's suitability for a law enforcement officer position and to assess appearance, background, and the ability to communicate.

(f) Screen the applicant for compliance with the selection and employment standards in R 28.14203 (a) to (h).

(g) Execute the standards compliance verification affidavit.

(2) The employing agency shall comply with both of the following while a recruit is enrolled in basic law enforcement training:

(a) Pay the enrollment cost for the recruit to the academy.

(b) Pay the employed recruit at least the federal minimum wage during the academy for all hours worked.

(3) During the course of the academy or while employed, the recruit shall not be required, or allowed, to repay the employer for any costs related to attendance at the academy. Further, no prepayment to the employer shall be required, or allowed, for any costs related to attendance at the academy.

(4) If the employed recruit successfully completes the academy and passes the licensing examination, then the employed recruit shall be immediately activated as a law enforcement officer, as provided in R 28.14205, before working as a law enforcement officer.

(5) The employing agency shall be the only agency eligible to activate an employed recruit.

(6) With respect to subrules (3) and (4) of this rule, for good cause the MCOLES executive director may approve a delayed activation as a law enforcement officer or activation by an agency other than the original employing agency. Good cause may include financial hardship and planned or unplanned employment vacancies.

R 28.14207 Employing agency responsibilities; preservice and preservice college recruits.

Rule 207. Before permitting a preservice or preservice college recruit to work as a law enforcement officer, the employing agency shall do all of the following:

(a) Require the applicant to complete a release of information statement for purposes of law enforcement licensing.

(b) Screen the applicant for compliance with the selection and employment standards in R 28.14203 (a) to (h).

(c) Execute the standards compliance verification affidavit.

(d) Verify that the recruit successfully completed a commission approved basic law enforcement course of study and passed the licensing examination.

(e) Verify that the recruit is within the timelines of R 28.14315 or has successfully completed the recognition of prior basic law enforcement training and experience program.

(f) Require the applicant to be examined to determine that the applicant meets the medical standards in R 28.14204. A declaration of the applicant's medical history shall be made available to the examining physician and shall become a part of the background investigation.

(g) Require the applicant to be fingerprinted and a search to be made of appropriate state and federal fingerprint files to disclose any criminal record within 180 days before the date of employment.

(h) Conduct an oral interview to determine the applicant's suitability for a law enforcement officer position and to assess appearance, background, and the ability to communicate.

(i) Activate the recruit as a law enforcement officer by complying with R 28.14205.

R 28.14208 Practices and standards.

Rule 208. Recruitment and employment practices and standards shall comply with the law applicable to law enforcement officer employment.

R 28.14209 Commission approved testing and test results.

Rule 209. All of the following apply to the testing specified in R 28.14203(g):

(a) The commission's reading and writing examination shall be administered only at approved locations under the supervision of and in a manner prescribed by the commission.

(b) Test results shall be maintained in the commission's information system and shall be available to the test taker and prospective employing agencies.

(c) A governmental agency, or its agent, may administer a reading and writing examination in lieu of the commission's examination if the agency certifies, in writing to the commission, that the examination is in compliance with the definition of "reading and writing examination" in R 28.14201. The commission may request that additional written documentation be submitted by a governmental agency, or its agent, to establish that the examination or examinations are in compliance with R 28.14201. The results of the examination(s) shall serve to satisfy the requirements of R 28.14203 and shall apply only to an applicant who seeks employment with

the governmental agency giving the examination.

R 28.14210 Minimum in-service law enforcement training standards; establishment by the commission.

Rule 210. The commission, with due consideration to varying factors and special requirements of local law enforcement agencies, may establish, maintain, and update minimum standards for in-service law enforcement training for commission licensed law enforcement officers in the policy and procedures manual published pursuant to R 28.14211.

R 28.14211 Publication of policies and procedures manual.

Rule 211. The commission shall prepare and publish a policies and procedures manual which is consistent with the act and these rules and which shall govern the implementation and administration of the programs described in these rules.

PART 3. BASIC RECRUIT LAW ENFORCEMENT TRAINING PROGRAMS

Note: Part 3 only - Filed with the Secretary of State on April 24, 2008

R 28.14301 Definitions.

Rule 301. As used in this part:

(a) “Academy operating contract” means a basic law enforcement training academy standard form contract executed between MCOLES and an academy under the administrative procedures act, section 7, 1969 PA 306, MCL 24.207(p).

(b) “Accredited community college, college, or university” means a community college, college, or university that has been accredited by an agency or association that has been recognized by the United States department of education.

(c) “Agency basic law enforcement training academy” means a law enforcement agency that is approved by the commission to provide a course of study for qualified recruits employed by that law enforcement agency.

(d) “Basic law enforcement training academy graduate” means a recruit who has completed the training and educational requirements of a commission approved basic law enforcement training academy.

(e) “Curriculum” means the commission mandated training objectives and training standards, as well as facilitator guides, assessment instruments, and other materials that are published by the commission for use in a commission approved basic law enforcement training academy.

(f) “Executive committee” means the committee of the commission established pursuant to the commission bylaws.

(g) “Preservice college basic law enforcement training academy” means a commission approved training and education program offered by an accredited community college, college, or university that incorporates the commission mandated curriculum in the academic course of study.

(h) “Program administrator” means a person who is employed by a city, county, township, village, corporation, college, community college, university, or state agency and who has been delegated authority to commit the agency to the basic law enforcement training academy proposal, annual operating plan, and the academy operating contract. The program administrator shall have management and oversight authority of the academy but shall not be the same person as the training director.

(i) “Regional basic law enforcement training academy” means a city, county, township, village, corporation, college, community college, university, or state agency that is approved by the commission to offer a basic law enforcement training program to preservice and employed recruits.

(j) “Satisfactory grade” means a grade of 70%, 2.0 on a 4.0 scale, or an institutional equivalent, or better grade, in each course included in the commission approved course of study in a preservice college basic training academy, unless specified otherwise in these rules.

(k) “Session” means a commission approved time frame during which a group of recruits are trained during basic law enforcement training at an academy.

(l) “Training and education advisory committee” means a group composed of knowledgeable persons, including law enforcement officials, who act in an advisory capacity regarding the establishment, guidance, and evaluation of a commission approved basic law enforcement training academy.

(m) “Training director” means that person who is responsible for the day-to-day operation of a basic law enforcement training academy.

(n) “Training objective” means a behavioral statement that describes a knowledge, skill, or ability to be acquired by the recruit during the delivery of the basic law enforcement training course of study.

R 28.14302 Authorization of basic law enforcement training academy; approval by commission.

Rule 302. A city, county, township, village, corporation, college, community college, university, or state agency shall obtain commission authorization before proceeding to establish an agency or regional basic law enforcement training academy or a preservice college basic law enforcement training academy under R 28.14303.

R 28.14303 Establishment of basic law enforcement training academy; program proposal.

Rule 303. (1) A city, county, township, village, corporation, college, community college, university, or state agency shall submit a written program proposal to establish a basic law enforcement training academy. The written program proposal shall be submitted to the commission in the manner prescribed by the commission not less than 90 days before the date of the commission meeting.

(2) The written program proposal shall contain, at a minimum, all of the following:

(a) A detailed description of the facilities and equipment to be used by recruits and instructors that will comply with the commission requirements.

(b) A description of the duties, responsibilities, and membership of the training and education advisory committee.

(c) The name, address, and position of the program administrator.

(d) The name, title, and qualifications of the training director.

(e) A description of the goals and objectives of the basic law enforcement training academy.

(f) A description of the nature and scope of the applicant’s financial and philosophical commitment to the basic law enforcement training academy.

(g) A copy of the academy rules governing recruit conduct.

(h) Identification of the academy requirements for an enrolled recruit.

(i) Identification of the course of study in the law enforcement training academy sessions.

(j) A statement recognizing the commission’s authority to visit and inspect the basic law enforcement training academy and to be furnished requested records and documentation.

(k) Identification and descriptions of affiliations with agencies, colleges, and universities that will be a part of the basic law enforcement training academy.

(l) An estimate of the number of basic law enforcement training academy sessions that will be offered on a yearly basis.

(m) A statement documenting the need for establishment of the proposed academy that includes both of the following:

(i) The need by law enforcement agencies in the proposed service area.

(ii) The prospective recruits’ need for the proposed academy.

(n) Documentation of support from the local law enforcement community within the geographic service area of the proposed academy.

(o) A statement describing the selection methods of prospective preservice and preservice college recruits.

(p) The projected starting and graduation dates of the first basic law enforcement training academy session.

- (q) A definition of the geographical area that the proposed basic law enforcement training academy will serve.
- (r) A projection of the number of recruits that will be enrolled in the academy on a yearly basis.
- (s) Verification that acceptable live-in facilities are available in the vicinity of the basic law enforcement training academy.
- (3) The entity submitting the program proposal in subrule (1) of this rule shall do all of the following with respect to the training and education advisory committee described in subrule (2)(b) of this rule.
 - (a) The training and education advisory committee shall be appointed before development of the program proposal and shall be consulted on all aspects of the application.
 - (b) The committee shall approve the program proposal before it is submitted to the commission. If the commission approves the program proposal, then the committee shall be consulted on a continuing basis regarding the operation of the academy.
 - (4) If the commission determines that the application is incomplete, then an amended application with amplification or clarification shall be filed within 30 days after the date of a request by the commission.
 - (5) Failure to comply with subrule (4) of this rule is grounds for denial of the application.
 - (6) Written commission approval of the program proposal shall be obtained before submitting an annual operating plan under R 28.14307.
 - (7) An approved basic law enforcement academy that fails to conduct an academy session for 3 years shall submit a new program proposal for commission approval to reestablish itself as an approved basic law enforcement training academy.

R 28.14304 Establishment of preservice college basic training academy; program proposal.

Rule 304. In addition to the requirements in R 28.14303, the program proposal of a preservice college basic law enforcement training academy shall include all of the following:

- (a) A copy of the community college, college, or university rules governing student conduct beyond those established by the commission.
- (b) A description of how students will be selected for acceptance into the preservice college basic training academy at the applicant's institution.
- (c) Identification of how and where the commission curriculum and additional community college, college, or university training objectives will be incorporated into the community college, college, or university course work.
- (d) Identification of the requirements that an enrolled preservice college recruit shall meet to successfully complete the prescribed course of study at the community college, college, or university.

R 28.14305 Establishment of agency basic law enforcement training academy; program proposal.

Rule 305. (1) The program proposal of a law enforcement agency that seeks to establish an agency basic law enforcement training academy shall comply with R 28.14303, except for R 28.14303(2) (b), (k), (m), (n), (o) and (q).

(2) In addition to the requirements of subrule (1) of this rule, the application shall include a statement documenting the need for establishment of the proposed academy by the law enforcement agency and the prospective recruits' need for the proposed academy.

R 28.14306 Training director responsibilities.

Rule 306. The training director of an approved basic law enforcement training academy shall do all of the following:

- (a) Ensure that the academy is operated in compliance with these rules and the academy operating contract.

(b) Ensure that each recruit is enrolled and maintains compliance with these rules and the academy operating contract.

R 28.14307 Annual operating plan; academy requirements after approval; notice of change in structure or content of program; commission approval required.

Rule 307. A city, county, township, village, corporation, college, community college, university, or state agency authorized by the commission to establish a basic law enforcement training academy shall do the following:

- (a) Submit an annual operating plan in the manner prescribed by the commission.
- (b) Execute an academy operating contract.
- (c) Final approval to operate under MCL 28.609(4)(b) is contingent upon formal acceptance of both subdivisions (a) and (b) of this rule by the commission.
- (d) The training director of a basic law enforcement training academy shall notify the commission immediately of any anticipated change in the annual operating plan during an academy session.
- (e) Written commission approval of the change shall be obtained before implementing a change.

R 28.14308 Basic law enforcement training academy session; approval required.

Rule 308. A city, county, township, village, corporation, college, community college, university, or state agency approved by the commission as a basic law enforcement training academy shall obtain commission approval in the manner prescribed by the commission before initiating each basic law enforcement training session.

R 28.14309 Revocation of commission approval; probation; suspension.

Rule 309. (1) A documented violation of these rules or the academy operating contract by an approved basic law enforcement training academy shall constitute cause for immediate review of continuing commission approval of the academy. Following the review, the MCOLES executive director may do any of the following:

- (a) Revoke the approval of a basic law enforcement training academy.
 - (b) Suspend the basic law enforcement training academy approval to operate until specified terms and conditions are met.
 - (c) Place the basic law enforcement training academy on probation for a specific period of time or until specified terms and conditions are met.
 - (d) Take informal action to resolve the violation.
- (2) The placement of an approved basic law enforcement training academy into a status as set forth in subrule (1) of this rule shall result in any of the following:
- (a) An academy placed into a status of revocation shall not operate the basic law enforcement academy, regardless of any active recruit sessions. The academy shall not be eligible for approval until submission of an application under R 28.14302 and R 28.14303.
 - (b) An academy placed into a status of suspension shall not operate the basic law enforcement academy, regardless of any active recruit sessions. The academy shall not be eligible for approval to resume operation until specified terms and conditions set forth by the commission or the executive committee are met. Failure to meet the specified terms and conditions may result in further suspension or revocation of the academy.
 - (c) An approved basic law enforcement training academy placed into a status of probation may continue operation, including any active recruit sessions, provided that specified terms and conditions set forth by the executive director are met. Failure to meet the specified terms and conditions may result in suspension or revocation of approval of the academy.
- (3) The executive director may authorize remedial action to minimize the impact of any academy sanction on recruits.

(4) The executive director shall immediately report his academy disciplinary action to the executive committee.

R 28.14310 Basic law enforcement training academy; right to appeal denial, revocation, suspension, or probation.

Rule 310. (1) A basic law enforcement training academy shall have standing to appeal in writing a denial, revocation, suspension, or probation to the commission within 3 business days of issuance of the original notice.

(2) The executive committee shall act on behalf of the commission, if the commission is not scheduled to meet within 5 business days of receipt of an appeal. A decision by the executive committee or the commission is final.

R 28.14311 Basic law enforcement training curriculum; course of study.

Rule 311. (1) The commission shall publish the basic law enforcement training curriculum.

(2) An approved basic law enforcement training academy shall teach the course of study approved by the commission.

(3) The approved academy shall provide, or provide access to, the curriculum to enrolled recruits.

R 28.14312 Academy enrollment; compliance with standards; deadlines.

Rule 312. (1) An application for enrollment in a commission approved academy, as defined in R 28.14301 (c), (g), and (i), shall be completed in the manner prescribed by the commission and include a release of information for purpose of law enforcement licensing.

(2) The training director shall screen all prospective preservice recruits in a regional basic law enforcement training academy session or a preservice college basic law enforcement training academy to ensure compliance with the selection and employment standards in R 28.14203 (a) to (g) and R 28.14204, not later than 5 business days before the start of an academy session or a preservice college program. An academy shall conduct a background check, in lieu of a comprehensive background investigation, on the form or in the manner prescribed by the commission to determine preservice and preservice college recruit compliance with R 28.14203(e).

(3) Before enrolling a preservice or preservice college recruit in an academy session, the academy shall provide the recruit with an approved medical history form that shall be made available to the examining physician and shall become a part of the physician's medical record.

(4) An employing agency shall ensure compliance with R 28.14206 not later than 5 business days before enrolling a recruit in an academy session.

(5) Within 180 days before the start of an academy, the prospective recruit shall be fingerprinted and a search made of appropriate state and federal fingerprint files to disclose any criminal record.

(6) An oral interview shall be conducted to determine a preservice or preservice college prospective recruit's suitability for a law enforcement officer position and to assess the applicant's demeanor, background, and the ability to communicate.

(7) A prospective recruit intending to enroll in a basic law enforcement training academy session shall take and pass the commission's preenrollment physical fitness examination before, but be within 180 days before the start of the academy session.

(8) The results of the selection and employment standards screening shall be submitted to the commission using the MCOLES information and tracking network not later than 5 business days before the start of an academy session. Exceptions and comments made by the examining physician, an investigator, or other person on source documents shall be included in the MCOLES information and tracking network reporting.

(9) A prospective recruit who is not in full compliance with the selection and employment standards shall not participate in any recruit training or be enrolled by the commission. Any participation in an academic course at a preservice college training academy, without first having complied with this rule, shall not count toward completion of the course of study.

(10) Before enrollment, the prospective recruit shall have executed the commission's standards compliance verification affidavit and the applicant background affidavit.

R 28.14313 Military preservice recruits.

Rule 313. (1) A prospective recruit seeking enrollment in a basic training academy who has prior military law enforcement experience may request a waiver of the requirements in R 28.14315(1)(b) to enroll in a commission approved regional or preservice college basic law enforcement training academy, if all of the following requirements are met:

- (a) Have successfully completed a mandatory basic military police training academy.
 - (b) Have served competently as a military police officer, with full powers of arrest, the authority to carry firearms in the performance of his or her duties, while holding the specialty rank or assignment of a military police officer, or its equivalent, in 1 of the 5 branches of the United States armed services, the national guard, or the reserves. The applicant shall have acted in the unrestricted full capacity of a military police officer for a minimum of 2,080 hours following training.
 - (c) Have been honorably discharged from active duty.
- (2) Each requirement listed above shall be verified through a commission review of a properly executed DD-214 and the applicant's military service record.

R 28.14314 Basic recruit requirements.

Rule 314. A basic law enforcement training recruit shall do the following:

- (a) Comply with all of the attendance and academic requirements.
- (b) Comply with all administrative rules, policies and procedures, and academy rules.
- (c) Successfully complete the prescribed course of study during the approved academy session. An extension for the completion of the basic training program and testing requirements may be granted by the commission for a recruit under the following conditions:
 - (i) The recruit has a documented physical injury sustained during an academy training event that is temporary and medically prohibits the recruit from full and active participation in 1 or more components of the basic training program or testing.
 - (ii) The recruit has a documented family or medical emergency situation outside the parameters of the academy that reasonably prohibits the recruit from full and active participation in 1 or more components of the basic training program or testing.
 - (iii) The recruit shall not be absent for more than one-half of any individual physical skills training and not more than 10% of the overall session.
 - (iv) An application for an extension shall be filed with the commission by the training director for a pre-service recruit or by a law enforcement agency for an employed recruit. The application shall comply with the procedures outlined in the policies and procedures manual published pursuant to R 28.14211.

R 28.14315 Preservice and preservice college recruit requirements.

Rule 315. (1) In addition to the requirements of R 28.14314, preservice and preservice college recruits shall do all of the following:

- (a) Meet and maintain compliance with the selection and employment standards in R 28.14203 (a) to (g) and R 28.14204.
- (b) Possess either an associate or baccalaureate degree before the commission will recognize the completion of the regional basic law enforcement training academy unless the requirement has been waived under R 28.14313.
- (c) At the time of employment, comply with all of the selection and employment standards in R 28.14203 and R 28.14204.

R 28.14316 Preservice college recruit requirements.

Rule 316. In addition to the requirements in R 28.14314 and R 28.14315, a preservice college recruit shall do all of the following:

- (a) Meet the requirements established by the community college, college, or university for enrollment in its approved preservice college basic training academy.
- (b) Complete the commission approved preservice college basic training course of study within a 1-year period.
- (c) Attain a satisfactory grade in all preservice college courses, as evidenced by an official academic transcript.
- (d) Graduate from an associate or baccalaureate degree program at an accredited community college, college, or university and have been awarded either an associate or baccalaureate degree before employment as a law enforcement officer.

R 28.14317 Agency basic recruits.

Rule 317. In addition to the requirements in R 28.14314, an agency basic recruit shall comply with the following:

- (a) Meet and maintain compliance with the selection and employment standards in R 28.14203 (a) to (h) and R 28.14204.
- (b) Maintain employment with the enrolling agency through successful completion of the course of study.
- (c) Complete the commission approved basic training course of study during the session within which the recruit is enrolled.

R 28.14318 Recruit dismissals; grounds.

Rule 318. (1) After investigation and consultation with the commission, the training director shall do the following:

- (a) Dismiss an enrolled recruit for failure to comply with or successfully complete the requirements in R 28.14314 to R 28.14317, as applicable.
- (b) Dismiss an employed recruit for failure to do either of the following:
 - (i) Maintain employment with a law enforcement agency during the basic law enforcement training academy.
 - (ii) Maintain compliance with the minimum selection and employment standards in R 28.14203 (a) to (f) and R 28.14204 during the basic law enforcement training academy.
- (2) The training director may dismiss an enrolled recruit after investigation and consultation with the commission for failure to comply with academy rules and regulations or the academy operating contract.
- (3) An agency law enforcement basic training academy may dismiss an employed recruit for reasons unrelated to subrules (1) and (2) of this rule without consultation with the commission. The academy shall notify the commission of the dismissal and the reason for the dismissal.
- (4) The commission may investigate and dismiss a recruit based on a violation of these rules, the academy operating contract, or the academy's rules and regulations as approved in the annual operating agreement.

R 28.14319 Recruit dismissals; appeal; final decision.

Rule 319. (1) A recruit dismissal may be appealed in the following manner:

- (a) An employer may appeal a dismissal of an employed recruit to the commission.
- (b) A dismissed employed recruit shall not have standing to appeal the dismissal to the commission.
- (2) A commission decision on appeal is final.
- (3) A preservice or preservice college recruit may appeal a dismissal to the MCOLES executive director. The executive director's decision is final.

R 28.14320 Recruit eligibility to take licensing exam; timeframe.

Rule 320. A basic law enforcement training recruit shall do the following:

- (a) Comply with all of the requirements in R 28.14314 to R 28.14317, as applicable, before taking the licensing exam.
- (b) Pass the licensing exam within 1 year of complying with the requirements in subdivision (a) of this subrule.

R 28.14321 Recruit licensing eligible timeframes.

Rule 321. A recruit who is not employed and licensed as a law enforcement officer within 1 year of completion of a basic law enforcement training academy session shall, before licensing, comply with the requirements of the recognition of prior basic law enforcement training and experience program. The executive director may extend the timelines in this subrule by not more than 90 days for either of the following reasons:

- (a) If required by reexamination under R 28.14204(g) or R 28.14602.
- (b) For good cause based on a prospective employing agency's written request. If an extension request is granted, the extension applies only to employment with the requesting agency.

PART 4. RECOGNITION OF PRIOR BASIC LAW ENFORCEMENT TRAINING AND EXPERIENCE**R 28.14401 Definitions.**

Rule 401. As used in this part:

- (a) "Approved in-service law enforcement training provider" means a training provider who delivers commission approved in-service law enforcement training.
- (b) "Post agency" means the state peace officer standards and training agency or agencies, in a state other than Michigan, that is authorized by that state's laws to establish training and employment rules for the certification or licensing of law enforcement officers in that state.
- (c) "Program" means both the curriculum component and the written and skill performance examinations component of the recognition of prior basic law enforcement training and experience program.

R 28.14402 Recognition of prior training and experience program; basic program eligibility.

Rule 402. A person enrolling in the recognition of prior basic law enforcement training and experience program shall submit a complete application for enrollment to the commission before consideration for acceptance into the program.

R 28.14403 Recognition of prior training and experience program; former Michigan officer candidate qualifications.

Rule 403. A person who was previously certified or licensed as a law enforcement officer in Michigan shall meet all of the following requirements for admission to the program:

- (a) Discontinuance in employment with full empowerment as a licensed Michigan law enforcement officer for a period of time in excess of that provided for in section 9(2) of the act, being MCL 28.609(2).
- (b) Reasonably expect to meet the selection and employment requirements of R 28.14203(a) to (j), except for (g) and (i), and R 28.14204.
- (c) The separation from employment as a law enforcement officer shall have been under such conditions that qualify the candidate for employment in Michigan as a law enforcement officer.

R 28.14404 Recognition of prior training and experience program; non-Michigan officer candidate qualifications.

Rule 404. A person who is or was previously certified or licensed as a law enforcement officer by a post agency in another state shall meet all of the following requirements for admission to the program:

- (a) Have completed a post agency basic law enforcement training program recognized by the commission or

have been employed as a law enforcement officer before the establishment of training standards in that state.

(b) Have been employed as a law enforcement officer empowered to enforce all of the general criminal laws in that state and have acted in that capacity for a minimum of 2080 hours following the date of certification or licensing.

(c) Reasonably expect to meet the current selection and employment standards of R 28.14203(a) to (j), except for (g) and (i), and R 28.14204.

(d) If not currently employed as a law enforcement officer, the separation from employment as a law enforcement officer shall have been under such conditions that qualify the candidate for employment in Michigan as a law enforcement officer.

R 28.14405 Recognition of prior training and experience program; Michigan Indian tribal law enforcement officer candidate qualifications.

Rule 405. A person who intends to participate in the recognition of prior basic law enforcement training and experience program by virtue of employment as a Michigan Indian tribal law enforcement officer shall comply with all of the following:

(a) Have successfully completed a basic law enforcement training program recognized by a post agency in another state, or a federally operated police training school that was sufficient to fulfill the minimum standards required by federal law to be appointed as a law enforcement officer of a Michigan Indian tribal police force.

(b) Be currently employed or have been employed as a law enforcement officer of a Michigan Indian tribal police force for not less than 1 year and empowered to enforce the criminal laws and have acted in that capacity following the date of appointment.

(c) Reasonably expect to meet the current selection and employment standards of R 28.14203(a) to (j), except (g) and (i), and R 28.14204. If not currently employed as a law enforcement officer, the separation from employment as a law enforcement officer shall have been under such conditions that qualify the candidate for employment in Michigan as a law enforcement officer.

R 28.14406 Recognition of prior training and experience program; preservice recruit candidate qualifications.

Rule 406. A person who intends to participate in the recognition of prior basic law enforcement training and experience program by virtue of having been previously eligible for licensing, based on compliance with the preservice recruit requirements in these rules, shall reasonably expect to meet the current selection and employment standards in R 28.14203 and R 28.14204 upon employment as a law enforcement officer.

R 28.14407 Completion requirements; time limits; extension.

Rule 407. (1) A candidate authorized to attend the recognition of prior basic law enforcement training and experience program shall start those components of the program required of the candidate within 3 months of receiving approval to enroll. Failure by a candidate to comply with this requirement shall require the candidate to reapply for admission to the program.

(2) Upon enrollment, the candidate shall execute the commission's affidavit of compliance with applicant background and eligibility requirements.

(3) For good cause, the commission may waive the time requirements and grant one 3-month extension on an approved application.

(4) A candidate who does not complete the program within 3 months of the start of the program shall be required to reapply for admission to the program, except as provided in R 28.14410(5).

R 28.14408 Recognition of prior training and experience program; hours; content, scope, and requirements; modification.

Rule 408. (1) The recognition of prior basic law enforcement training and experience program curriculum

component content shall be set by the commission.

(2) The commission shall establish requirements for the curriculum component of the program with respect to all of the following:

(a) Criteria and qualification for exemption from various parts of the curriculum component, with due consideration for all of the following:

- (i) Previous training and experience.
- (ii) The position for which employment is sought.
- (iii) Attendance and participation.
- (iv) Testing and testing standards.

(3) The commission may modify the content and scope of the curriculum component. The requirements for the curriculum component shall be published in the policies and procedure manual, published pursuant to R 28.14210.

R 28.14409 Demonstrate competence on licensing and performance examinations.

Rule 409. (1) The licensing examination shall be administered by the commission to determine that a candidate possesses minimum competencies required for licensing only after the candidate has successfully completed all assessments and requirements.

(2) Performance examinations may be administered by the commission to assess a candidate's competence in skill areas.

(3) Competence shall be demonstrated on each examination to successfully complete the recognition of prior basic law enforcement training and experience program.

(4) Administration of a skill performance examination shall conform to the procedures used in the recruit training program as specified in the policies and procedures manual published pursuant to R 28.14210.

(5) The commission may establish requirements for exemption from various skill performance examinations, with due consideration for both of the following:

- (i) Previous training and experience.
- (ii) The position for which employment is sought.

R 28.14410 Examination protocols; first assessment; second assessment; failure.

Rule 410. (1) A person in the recognition of training and experience program who fails the first assessment of the licensing examination is eligible for a second assessment within the time limits provided in R 28.14407.

(2) A person who fails the first assessment of a performance examination in a skill area is eligible for a second assessment in a failed skill area within the time limits provided in R 28.14407.

(3) A second assessment on the licensing examination or in a skill area shall be at the expense of the applicant.

(4) A person who fails a second assessment on the licensing examination or fails 2 or more skill areas shall enroll in and successfully complete the Michigan basic law enforcement training program to be employed and activated as a law enforcement officer.

(5) A person who fails a second assessment in not more than 1 skill area may, at that person's option, do one of the following to complete the requirements of the failed skill area:

(a) Apply for enrollment and be accepted in a regular basic training session at a Michigan basic police training academy for training and testing in the failed skill area. An academy may decline an enrollment request. Comply with the following:

- (i) The costs related to enrollment in an academy shall be at the expense of the applicant or the employer.
- (ii) Comply with all of the academy and commission enrollment requirements.
- (iii) Comply with and successfully complete all of the academy attendance, participation, and testing requirements in the failed skill area.

(b) Apply for enrollment and be accepted in a commission approved law enforcement training program for

the failed skill area and comply with the following:

(i) The costs related to enrollment in the approved program shall be at the expense of the applicant or the employer.

(ii) Comply with all of the program enrollment requirements.

(iii) Comply with and successfully complete all of the program attendance, participation, and testing requirements.

(6) The results of the training shall be reported to the commission in the manner and form prescribed by the commission.

(7) Following the receipt of the results of the training by the commission, the person shall apply to, be accepted in, and complete the skill area assessment in the recognition of prior basic law enforcement training and experience program. A second failure in the skill area shall require that the person enroll in and successfully complete the recognition of prior basic law enforcement training and experience program in order to be eligible to be licensed as a law enforcement officer.

(8) A person shall successfully complete the recognition of prior basic law enforcement training and experience program, including the requirements of this rule, within 1 year of the start of the program.

R 28.14411 Responsibilities of employing agency.

Rule 411. Before permitting a person who has successfully completed the recognition of prior basic law enforcement training and experience program to work as a law enforcement officer, an employing agency shall activate the person as a law enforcement officer under R 28.14204.

R 28.14412 Request to conduct the recognition of prior training and experience program; minimum instructor qualifications.

Rule 412. (1) An academy approved by the commission to conduct the basic law enforcement training and experience program may apply for approval to conduct the recognition of prior basic law enforcement training and experience program. The commission may solicit additional academies to conduct the program.

(2) The minimum qualifications for instructing in the program are the same as those prescribed for the basic law enforcement training program.

(3) An academy approved to conduct the recognition of prior basic law enforcement training and experience program shall annually submit an operating plan to the commission for approval. The program shall not be run until the operating plan is approved and an operating agreement is in place.

(4) An academy or an approved in-service law enforcement training provider may apply for approval to conduct a recognition of prior basic law enforcement training and experience skill training program. The skill training program shall compress the required skill area training, as provided in R 28.14410, into one condensed block of instruction. The minimum qualifications for instructing in the program are the same as those prescribed for the basic law enforcement training program.

R 28.14413 Expiration of eligibility for licensing; extension.

Rule 413. (1) Eligibility for activation as a law enforcement officer for a person admitted to the recognition of prior basic law enforcement training and experience program under R 28.14403 to R 28.14406 shall expire 12 months after the completion of the program or the first assessment on the licensing examination, whichever comes first.

(2) For good cause, the executive director may waive the time requirements and grant one 3-month extension.

(3) A person who successfully completes the program, and is activated as a law enforcement officer within the eligibility period, shall be subject to time conditions as provided for in section 9(2) of the act, MCL 28.609(2).

R 28.14414 Policies and procedures.

Rule 414. The commission shall prepare and publish policies and procedures which are consistent with the rules in this part and which shall govern the implementation and administration of the recognition of prior basic law enforcement training and experience program. The policies and procedures shall be part of the policies and procedures manual published pursuant to R 28.14210.

PART 5. LICENSING, REPORTING, AND TRACKING

R 28.14501 Definitions.

Rule 501. As used in this part:

(a) “Employment transaction” means any hire or separation of a law enforcement officer from fully empowered employment.

(b) “Non-state statute employing agency” means an agency that does not meet the definition of a law enforcement agency in R 28.14102(f), but employs one or more persons who meet the definition of a “police officer” or “law enforcement officer” as provided in MCL 28.602(l), other than MCL 28.602(l)(i).

(c) “Separation from law enforcement authority” means a discontinuation in employment as a licensed law enforcement officer, including a change in fully sworn status, or removal of full empowerment, if the separation exceeds the time frames specified in the act, MCL 28.609(2). A separation from law enforcement authority has occurred if the person is not at work and is unavailable to report for a regular duty shift as a law enforcement officer for a period of time that exceeds the time frames in MCL 28.609(2).

R 28.14502 Employment history record; maintenance.

Rule 502. (1) A recognized law enforcement agency shall maintain an employment history record for each law enforcement officer employed, subject to inspection by the commission. The employment history record shall include all of the following documentation:

- (a) Proof of paid employment.
 - (b) Standards compliance documentation, as specified in R 28.14504, if applicable.
 - (c) The officer’s license issued by the commission for that agency.
 - (d) Proof of conferral of law enforcement authority.
 - (e) Proof of separation from law enforcement authority, if applicable.
 - (f) Proof of reinstatement of law enforcement authority, if applicable.
 - (g) Proof of separation from employment, if applicable.
- (2) The documents in the employment history record shall be maintained for either of the following, whichever is longer:
- (a) Thirty years from the date of creation of the document, with the exception provided in R 28.14504(f), even if the officer separates from employment with the agency or becomes deceased.
 - (b) As long as the officer is employed plus 5 years.

R 28.14503 MCOLES information and tracking network; maintenance of employment history record.

Rule 503. (1) A recognized law enforcement agency shall report an employment history record for each fully empowered law enforcement officer employed by the agency using the MCOLES information and tracking network.

(2) For purposes of the MCOLES information and tracking network and these rules, a non-state statute employing agency shall be verified by the commission as a recognized law enforcement agency.

(3) With respect to the following, the agency shall verify existing information in the MCOLES information and tracking network or submit compliance documentation for information verified independently by the agency:

- (a) Successful completion of basic law enforcement officer training.
- (b) Screening for compliance with the employment standards in R 28.14203, R 28.14204, R 28.14206 and R 28.14207. Exceptions and comments made by the person or persons conducting the screening shall be entered

into the MCOLES information and tracking network record.

- (c) Initial law enforcement officer license activation.
- (d) Agency employment transactions.
- (e) Commission mandated in-service law enforcement training.

(4) With respect to the following, the agency shall verify existing information in the MCOLES information and tracking network or submit compliance documentation for information verified independently by the agency, if applicable:

- (a) Recognition of prior law enforcement officer basic training.
- (b) Reactivation of the Michigan law enforcement officer license.
- (c) Separation from law enforcement authority.
- (d) A violation of MCL 28.609b.
- (5) The agency may submit all of the following, if applicable:

- (a) Specialties and endorsements recognized by the commission that may be appended to a law enforcement officer's license.
- (b) Non-mandated in-service law enforcement training.
- (c) Out-of-state law enforcement in-service licenses and/or certifications.
- (6) The agency shall annually verify its roster of commission licensed law enforcement officers consistent with R 28.14511.

R 28.14504 Standards compliance documentation; maintenance.

Rule 504. An agency employing and activating a person, for initial licensing or licensing pursuant to the recognition of prior basic law enforcement training and experience program, being R 28.14401, shall maintain all of the following documentation:

- (a) A copy of the authorization for release of information for license activation form signed by the person.
- (b) A copy of the position description for the position into which the officer was hired and sworn.
- (c) Proof of conferral of authority, such as an oath of office, showing the name of the officer and the date on which the person became a fully empowered law enforcement officer.
- (d) The commission application for licensing completed by the agency to document that the applicant met the selection and employment standards in R 28.14204.
- (e) A copy of the required state and federal fingerprint search results.
- (f) A copy of the required background investigation, which shall be maintained for not less than 5 years.
- (g) A copy of the required drug screen report.
- (h) Proof of compliance with the education requirements.
- (i) Proof of United States citizenship.
- (j) A copy of the officer's operator's or chauffeur's license valid at the time of license activation.

R 28.14505 Document retention; academies.

Rule 505. (1) An academy shall retain standards compliance documentation for preservice and preservice college recruits for 3 years following the completion of training or until the recruit is licensed as a law enforcement officer, whichever is longer.

(2) An academy shall retain both collective and individual basic training academy session documents, except for those records forwarded to the commission, for 30 years from the date of creation of the document.

(3) An academy approved to conduct the recognition of prior basic law enforcement training and experience program shall retain documentation of standards compliance by participants for 3 years and collective and individual documentation of attendance and training, not forwarded to the commission, for 30 years.

R 28.14506 Employment; all applicants.

Rule 506. An agency shall do all of the following when hiring an applicant as a licensed law enforcement

officer:

- (a) Verify that the person complies with each of the selection and employment standards in R 28.14203 and R 28.14204.
- (b) Certify that the person is employed and paid at least a federal minimum wage by the agency as of the date of full empowerment.
- (c) Verify that the person has not been convicted of a felony as that term is defined in the act.
- (d) Verify that the person has not been convicted of a misdemeanor offense of domestic violence, or is otherwise the subject of a court order, which may make the person ineligible to possess a firearm.
- (e) The information in this rule shall be submitted to the commission using the MCOLES information and tracking network.

R 28.14507 Employment; applicant whose Michigan license has not lapsed.

Rule 507. When employing a person previously licensed as a law enforcement officer in Michigan who is within the time frames in the act, being MCL 28.609(2), an agency shall do all of the following in the order listed:

- (a) Verify the applicant's eligibility for licensing through the MCOLES information and tracking network.
- (b) Administer the oath of office conferring full law enforcement authority on the applicant.
- (c) Place a copy of the law enforcement officer new hire notification, which documents the conferral of law enforcement authority, in the officer's employment history record at the agency.
- (d) Report the employment transaction to the commission using the MCOLES information and tracking network within 3 business days.

R 28.14508 Employment; applicant eligible for licensing.

Rule 508. When employing an applicant eligible for activation as a licensed law enforcement officer, an agency shall do all of the following concerning that person in the order listed:

- (a) Verify eligibility for licensing using the MCOLES information and tracking network.
- (b) Activate the person as a licensed law enforcement officer, as provided in R 28.14205.
- (c) Place a copy of the license activation report, which documents the conferral of law enforcement authority, in the officer's employment history tracking record at the agency.

R 28.14509 Notice of separation from employment; return of license.

Rule 509. (1) An agency shall report to the commission the separation from employment of a licensed law enforcement officer within 3 business days of separation using the MCOLES information and tracking network.

- (2) The report of separation shall include both of the following:
 - (a) The reason for the separation.
 - (b) The total hours worked by that officer during the calendar year of the separation.
- (3) The agency shall return to the commission the officer's original license that verified employment and licensing with the agency, if such a license was issued to the agency, along with a signed copy of the law enforcement officer separation report. The agency shall collect and forward to the commission the identification card that may have been issued to the officer by the commission.

R 28.14510 Notice of separation from law enforcement authority.

Rule 510. An agency shall report to the commission the separation from law enforcement authority of a licensed law enforcement officer within 3 business days of knowledge of the separation using the MCOLES information and tracking network. The agency shall make the report when the separation is of an undetermined length or may exceed the time frames specified in the act, being MCL 28.609.

R 28.14511 Employment roster; annual agency verification.

Rule 511. Each agency shall annually confirm its roster of commission licensed law enforcement officers by doing all of the following:

- (a) Verify that all licensed law enforcement officers employed by the agency are listed on the agency roster in the MCOLES information and tracking network.
- (b) Verify that the current status of each officer is accurate and report the number of paid hours actually worked by each full-time and part-time commission licensed officer during the most recent complete calendar year.
- (c) Submit changes or corrections to the commission using the MCOLES information and tracking network during the annual registration window specified by the commission.

R 28.14512 In-service law enforcement training; providers; requirement to register; sanctions.

Rule 512. (1) An in-service law enforcement training provider shall do both of the following through the MCOLES information and tracking network:

- (a) Register course offerings with the commission.
 - (b) Submit a roster of all Michigan licensed law enforcement officers attending a course.
- (2) Failure to submit an attendance roster may cause the revocation of the training provider's training course registrations.

R 28.14513 Identification of instructors.

Rule 513. (1) Each academy shall register each instructor who will be teaching in an approved basic law enforcement training academy and identify the instructor's qualifications.

- (2) Each in-service law enforcement training provider shall identify each instructor in a registered in-service course.
- (3) Instructors shall be reported using the MCOLES information and tracking network.

R 28.14514 Security agreement; information security.

Rule 514. (1) Before use of the MCOLES information and tracking network, an agency, academy, or in-service law enforcement training provider shall execute a user agency agreement with the commission.

- (2) The user, its operators, and other employees shall comply with the MCOLES security policy and user agency agreement submitted by the user.
- (3) The user's agency head shall designate employees as operators through the completion of an operator agreement for each person.

R 28.14515 Misuse of MCOLES information and tracking network; sanctions.

Rule 515. Any misuse of or access by an unauthorized user of the MCOLES information and tracking network may result in sanctions for both the person and the agency.

R 28.14516 Transfer of employment history record.

Rule 516. If a recognized law enforcement agency is disbanded, then the commission may transfer the employment history record described in R 28.14502 to another recognized law enforcement agency or to the commission.

PART 6. INVESTIGATIONS AND REVOCATIONS

R 28.14601 Definitions.

Rule 601. As used in these rules:

- (a) “Application process” means the complete process by which a person becomes a commission licensed law enforcement officer.
- (b) “Conviction” or “convicted” means a criminal conviction of an offense included in MCL 28.609b by guilty verdict from a judge or jury, plea of guilty, or plea of no contest.
- (c) “Materially false statements” means the failure to provide complete and truthful information required in R 28.14203 and R 28.14204 by a person, or on behalf of a person, during the application process to obtain a license or to gain employment as a law enforcement officer.
- (d) “Suspension” means the temporary removal of a licensed law enforcement officer’s authority to access the law enforcement information network (LEIN).
- (e) “Wrongful disclosure” means the disclosure of information from the law enforcement information network in violation of MCL 28.214.

R 28.14602 Investigation; protocol.

- Rule 602. (1) The commission may conduct an investigation, or cause an investigation to be conducted, of an alleged violation of the act, these rules, or a provision of the commission’s policies and procedures, published pursuant to R 28.14211 of these rules, by a law enforcement agency, training academy, instructor, or a person.
- (2) The investigation shall be consistent with the provisions of MCL 28.609c and these rules.
 - (3) The commission shall suspend time limits in these rules for not more than 90 days during the course of an investigation, when the time limits would otherwise expire because of a commission investigation.

R 28.14603 Complaints; sharing complaint information.

- Rule 603. (1) The commission shall record all complaints, their status, and their resolution.
- (2) The commission shall make available to law enforcement agencies as much information as legally permissible regarding complaints for the purpose of conducting background investigations of law enforcement officer applicants.

R 28.14604 Investigation; license; felony conviction; summary suspension.; revocation.

- Rule 604. (1) If an investigation discloses that a licensed person was convicted of an offense defined in MCL 28.602(f), an order of summary suspension and notice of intent to revoke shall immediately issue. A hearing shall be conducted under the provisions chapters 4 and 5 of the administrative procedures act of 1969, MCL 24.271 to 24.291, and as provided in part 7 of these rules. A certified copy of the order of conviction shall be evidence of a felony conviction.
- (2) If the hearing held under subrule (1) of this rule substantiates that the licensed person was convicted of an offense defined in MCL 602 (f), the commission shall revoke the license of a law enforcement officer.
 - (3) Upon notification of a final decision of license revocation, the person shall return the license immediately to the commission.
 - (4) A person who has had a license revoked under this rule shall not be eligible to reapply for a license as long as the felony conviction stands. For the purpose of these rules, set aside or expunged records are considered the same as a conviction.

R 28.14605 Investigation; person with license; fraud or false statement; revocation.

Rule 605. (1) If an investigation discloses that a licensed person committed fraud or made materially false statements in obtaining a license, the commission shall issue a complaint containing the allegations against the person and a notice of the intent to revoke the person's license. The notice shall state that the licensed person has 30 days from the date of issuance of the notice to request in writing either of the following:

- (a) an opportunity to show compliance, or
- (b) a contested case hearing conducted in accordance with chapters 4 and 5 of the administrative procedures act of 1969, being MCL 24.271 to 24.292, and as provided in part 7 of these rules.

(2) If the licensed person fails to request an opportunity to show compliance or a contested case hearing within 30 days of the issuance of the complaint and notice, the failure shall be regarded as an admission to the allegations in the complaint and the executive director shall revoke the license.

(3) If a contested case hearing is held and the licensed person is found to have committed fraud or made materially false statements during the application process for a license, the commission shall revoke the person's license as provided in part 7 of these rules,

(4) Upon notification of a final decision of license revocation, the person shall return the license immediately to the commission.

(5) A person whose license is revoked under this rule shall not be eligible to reapply for a license for 2 years from the date of revocation.

(6) A person whose license is revoked under this rule shall include the information related to the revocation in an application for relicensing. The revocation information shall be considered when determining if the person complies with the law enforcement officer selection and employment standards.

R 28.14606 Investigation; non-licensed persons; sanctions.

Rule 606. (1) If a person is not licensed in Michigan and an investigation discloses that the person committed fraud, made false statements, or failed to disclose requested information during the application process for a license, then the executive director shall determine the appropriate sanction under this rule. The executive director may establish internal procedures necessary to implement this rule. The decision of the executive director shall be final.

(2) Sanctions may include, but are not limited to, all of the following:

- (a) A fixed period of time, not less than 2 years, during which the person shall be ineligible for entry into, or continuation in, the application process.

- (b) Specific requirements that shall be met before consideration is given for entry into the application process.

- (c) Denial of entry into the application process.

R 28.14607 Disclosure of LEIN information; suspension.

Rule 607. Upon written notice by the criminal justice information systems policy council of a determination that a licensed person has wrongfully disclosed information from the law enforcement information network (LEIN), the commission shall suspend the person from the use of information from the LEIN, for a period of time the commission deems appropriate. In making its decision, the commission shall consider the propriety of actions taken by the employing law enforcement agency. The commission shall notify the criminal justice information systems policy council, the employing agency, and the local area dispatch of the sanction and direct the agency to impose the sanction. A sanction or sanctions imposed by the commission may run concurrently with a sanction or sanctions imposed by the employing agency.

R 28.14608 Delegation of power to executive director.

Rule 608. At the discretion of the commission, the executive director may investigate, subpoena, and petition the court as provided in MCL 28.609c.

R 28.14609 Review of investigations for criminal wrongdoing.

Rule 609. If a commission investigation discloses possible wrongdoing of a criminal nature, then the executive director or his or her designee shall refer the case for possible criminal prosecution to the appropriate county prosecuting attorney or the office of the attorney general.

PART 7. CONTESTED CASE HEARINGS**R 28.14701 Eligibility for hearing.**

Rule 701. A hearing provided for in R 28.14604 and R 28.14605 of part 6 of these rules shall comply with the requirements of the administrative procedures act and these rules.

R 28.14702 Final decision.

Rule 702. A proposal for decision shall be presented to the full commission at a regularly scheduled meeting following the presiding officer's issuing of a proposal for decision. The commission shall do one of the following:

- (a) Adopt the findings of fact, conclusions of law, and the recommendations of the hearing officer.
- (b) Reverse the hearing officer based upon the record.
- (c) If the record is found to be incomplete, remand the case back to the hearing officer for reconsideration with specific instructions as to the matter in the case to be reconsidered.

MICHIGAN JUSTICE TRAINING COMMISSION
Act 302 of 1982

An act to create the Michigan justice training commission and the Michigan justice training fund; to provide the powers and duties of certain state agencies; to provide for the distribution and expenditure of funds; and to provide for the promulgation of rules.

The People of the State of Michigan enact:

18.421 Definitions.

Sec. 1. As used in this act:

- (a) "Alcoholic liquor" means that term as defined in section 2 of the Michigan liquor control act, Act No. 8 of the Public Acts of the Extra Session of 1933, being section 436.2 of the Michigan Compiled Laws.
- (b) "Eligible entity" means a city, village, township, county, junior college, community college, state supported college or university, or the department of state police.
- (c) "Fund" means the Michigan justice training fund created in section 5.
- (d) "In-service criminal justice training" means a criminal justice educational program presented by an agency or entity eligible to receive funds pursuant to this act or by a contractual service provider hired by the agency or entity eligible to receive funds pursuant to this act, including a course or package of instruction provided to an eligible trainee for the payment of a fee or tuition, or education or training presented through the use of audio-visual materials, which program, education, or training is designed and intended to enhance the direct delivery of criminal justice services by eligible employees of the agency or entity.
- (e) "MLEOTC certified police officer" means an individual certified as a police officer under the Michigan law enforcement officers training council act of 1965, Act No. 203 of the Public Acts of 1965, being sections 28.601 to 28.616 of the Michigan Compiled Laws.
- (f) "Professional association" means a national, state, or local police union, or an association or fraternal organization of police officers, correctional officers, or prosecuting attorneys.
- (g) "State or local agency" means any of the following:
 - (i) An agency, department, division, bureau, board, commission, council, or authority of the state or of a city, village, township, or county.
 - (ii) A state supported college or university.
 - (iii) A community college or junior college.
 - (iv) Any agency or entity of the judicial branch of government of this state.

History: 1982, Act 302, Imd. Eff. Oct. 12, 1982;-Am. 1989, Act 158, Imd. Eff. July 28, 1989.

Compiler's note: For transfer of authority, powers, duties, functions, and responsibilities of the Michigan Justice Training Commission and the Michigan Justice Training Fund from the Department of Management and Budget to the Department of State Police, see E.R.O. No. 1993-5, compiled at MCL 18.431 of the Michigan Compiled Laws.

For transfer of statutory authority, powers, duties, functions, and responsibilities of the Michigan justice training commission, the Michigan justice training fund, the commission on law enforcement standards, and the law enforcement officers training fund to the new Michigan commission on law enforcement standards by type III transfer, see E.R.O. No. 2001-2, compiled at MCL 28.621 of the Michigan compiled laws.

18.422 Michigan justice training commission; creation; membership; election and term of chairperson; reimbursable expenses; conducting business at public meeting; notice; functions requiring affirmative votes of 5 members.

Sec. 2. (1) The Michigan justice training commission is created within the department of management and budget. The commission shall consist of the following members:

- (a) The director of the department of state police or his or her representative.

- (b) The president of the prosecuting attorneys' association of Michigan or his or her representative.
 - (c) The president of the Michigan sheriffs' association or his or her representative.
 - (d) The president of the Michigan association of chiefs of police or his or her representative.
 - (e) One person appointed by the governor who is employed by a police agency employing at least 20% of the police officers in this state.
 - (f) The president of the Michigan state police troopers association or his or her representative.
 - (g) One person appointed by the governor who has been elected by police officers other than police officers in administrative or managerial positions, representing the interests of police officers other than police officers in administrative or managerial positions.
 - (h) The president of the criminal defense attorneys of Michigan or his or her representative.
- (2) The commission shall elect a chairperson annually from among the members of the commission. A person shall not serve more than 2 consecutive years as chairperson.
- (3) The members of the commission shall be reimbursed for actual expenses, including travel expenses, from the fund. Members of the commission shall not be reimbursed for expenditures for alcoholic liquor, or for meal expenditures in excess of the per diem meal expenditures authorized for members of the state civil service.
- (4) The business which the commission may perform shall be conducted at a public meeting of the commission held in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, as amended, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the meeting shall be given in the manner required by Act No. 267 of the Public Acts of 1976, as amended.
- (5) The commission shall not perform any function authorized under section 3 without the affirmative votes of 5 members of the commission.

18.423 Duties of commission; assistance.

Sec. 3. The commission shall do all of the following, with the assistance of the department of management and budget:

- (a) Annually distribute 60% of the fund to eligible entities not including the money in the fund pursuant to section 5(2). An eligible entity receiving a distribution under this subdivision shall expend the distribution only for the in-service criminal justice training of its police officers. An eligible entity that uses money received under this subdivision shall maintain detailed records of the actual costs associated with the preparation for, the administration of, and the actual conducting of the training program. Use of money received under this subdivision for the payment of unreasonable or duplicative costs, as determined by the commission, shall result in the forfeiture of the money received by the eligible entity under this subdivision. Money distributed to an eligible entity which is not expended in the fiscal year of the distribution shall only be expended by the eligible entity for the in-service criminal justice training of its police officers in future fiscal years. An eligible entity receiving a distribution pursuant to this subdivision shall use the entire distribution for the in-service criminal justice training of its police officers within 2 years after receiving the distribution. If the eligible entity fails or refuses to use the entire distribution for the in-service criminal justice training of its police officers within 2 years after receiving the distribution, the eligible entity shall not be eligible to receive additional distributions pursuant to this subdivision until the prior distribution is used for the in-service criminal justice training of its police officers. A distribution made under this subdivision shall serve as a supplement to, and not as a replacement for, the funds budgeted on October 12, 1982, by an eligible entity for the in-service criminal justice training of its police officers. The distribution shall be made in 2 semiannual installments on dates determined by the commission and shall be expended only for the direct costs of the in-service criminal justice training of police officers. The funds shall be distributed on a per capita basis to eligible entities based upon the number of full-time equated sworn MLEOTC certified police officers employed. Each eligible entity shall receive a minimum distribution of \$500.00. For purposes of this subdivision, the number of full-time equated sworn MLEOTC certified police officers shall be determined by dividing the total number of paid work hours actually worked by sworn MLEOTC certified police officers in the eligible entity's fiscal year by 2,080 hours, rounded down to the nearest whole number. For each

year, the percentage of police officers who provide direct police service receiving training under this act shall be equal to or greater than the percentage of police officers who are in full-time administrative positions receiving training under this act.

(b) Annually distribute through a competitive grant process the balance of the fund after making the distributions required in subdivisions (a) and (d) and the expenditures required under section 2(3). In distributing money from the fund, the commission shall consider the quality and cost effectiveness of the training programs of applicants for funds and the criminal justice needs of this state. Money shall not be distributed under this subdivision to a professional association. In distributing money from the fund, the commission shall attempt to provide equity in funding for training programs for prosecutors and assigned criminal defense counsel. A state or local agency that uses money received under this subdivision shall maintain detailed records of the actual costs associated with the preparation for, the administration of, and the actual conducting of the training program. Use of money received under this subdivision for the payment of unreasonable or duplicative costs, as determined by the auditor general or the commission, shall result in the forfeiture of the money received by the state or local agency under this subdivision. Grants under this subdivision shall be distributed only to the following:

(i) State or local agencies for the purpose of providing in-service criminal justice training programs to employees of those state or local agencies. A distribution made under this subparagraph shall serve as a supplement to, and not as a replacement for, the funds budgeted on October 12, 1982, by a state or local agency for in-service criminal justice training.

(ii) State or local agencies providing criminal justice training to the employees or the contractual service providers of other state or local agencies. A distribution made under this subparagraph shall be used to enhance and increase, but not supplant, the amount of local, federal, and other state funds that, in the absence of money from the Michigan justice training fund, are available for criminal justice training. As used in this subparagraph, "criminal justice training" means training which is designed and intended to enhance the direct delivery of criminal justice services by employees of state or local agencies; which is not required minimum basic training for police officers or initial training for other employees; and which is any of the following:

(A) A criminal justice educational program presented by the state or local agency or by a contractual training provider hired by the agency.

(B) A criminal justice course or package of instruction provided to an eligible trainee for the payment of a fee or tuition.

(C) Self-education presented through the use of audio-visual materials.

(c) Promulgate rules pursuant to the administrative procedures act of 1969, Act No. 306 of the Public Acts of 1969, as amended, being sections 24.201 to 24.328 of the Michigan Compiled Laws, which prescribe the procedures by which the commission shall distribute money from the fund.

(d) Annually distribute an amount from the fund to the department of management and budget to cover the reasonable expenses of providing staff services to the commission, and to cover the expense of maintaining a register of available criminal justice training programs in this state.

18.424 Prohibited expenditures; approval of out-of-state training program.

Sec. 4. (1) Distributions of money under this act shall not be expended for any of the following:

(a) Criminal justice training conducted by a training provider not based in this state unless the training event has first been approved by the commission.

(b) Criminal justice training not located in this state, unless the training event has first been approved by the commission.

(c) Criminal justice training in another country.

(d) Meal expenditures in excess of the per diem meal expenditures authorized for civil service employees.

(e) Purchasing alcoholic liquor.

(f) Travel costs to participate in criminal justice training, unless the criminal justice training program is for the sole purpose of training or offers not less than 6 hours of qualifying training within any 24-hour period.

(g) The publication of a newsletter.

(2) The commission shall not approve any out-of-state training program unless the eligible entity requesting approval of the training program has exhausted all reasonable efforts to locate a similar training program in this state, and the commission is satisfied that a similar training program is not available in this state.

18.424a Printed materials; statement.

Sec. 4a. Any material printed from funds distributed under this act shall contain a statement that Michigan justice training funds were used to print that material.

18.425 Michigan justice training fund; creation; disposition of certain money and investment earnings.

Sec. 5. (1) The Michigan justice training fund is created in the state treasury.

(2) Money in the fund which is not distributed in a fiscal year and which was to be distributed under section 3(b) shall remain in the fund for distribution in future fiscal years only for the purposes described in section 3(b).

(3) Investment earnings from the Michigan justice training fund assets shall be deposited in the Michigan justice training fund.

18.426 Annual reports.

Sec. 6. Each eligible entity and state or local agency receiving a distribution under this act shall report annually to the commission on the results of its training programs. Each training program financed in whole or in part by a distribution from the Michigan justice training fund shall be separately identified. The commission shall report annually to the appropriating committees of the legislature on the results of the expenditure of the amount distributed.

18.427 Repealed. 1984, Act 364, Eff. Mar. 29, 1985.

18.428 Conditional effective date.

Sec. 8. This act shall not take effect unless House Bill No. 5520 of the 81st Legislature is enacted into law.

18.429 Audit of books, records, and accounts.

Sec. 9. The books, records, and accounts of the Michigan justice training commission shall be audited by the auditor general every 2 years.

18.430 Repealed. 1992, Act 104, Imd. Eff. June 25, 1992.

**DEPARTMENT OF STATE POLICE
MICHIGAN COMMISSION ON LAW ENFORCEMENT STANDARDS
JUSTICE TRAINING FUND PROGRAMS**

Filed with the Secretary of State on January 19, 2006

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the Michigan Commission on Law Enforcement Standards by section 3 of 1982 PA 302, by section 9 of 1965 PA 380, and by Executive Reorganization Order 2001-2, MCL 18.423, 16.109, and 28.621.)

R 18.14901 Definitions.

Rule 901. (1) As used in these rules:

- (a) "Act" means 1982 PA 302, MCL 18.421.
 - (b) "Commission" means the Michigan commission on law enforcement standards.
 - (c) "Equipment" means an item of personal property of major value as established by the commission, which has a useful life of more than 1 year, which is used in direct in-service criminal justice training, and which is not a fixed part of a building or structure.
 - (d) "Officer cutoff" means the number of Michigan commission on law enforcement standards licensed full-time equated officers established by the commission, below which an eligible entity shall receive the minimum distribution under the provisions of section 3(a) of the act.
- (2) "Distribution" as used in section 3(a) of the act and these rules, means the 2 semiannual payments made from the fund to eligible entities.
- (3) Terms defined in the act have the same meanings when used in these rules.

R 18.14902 Distribution of 60% of fund.

Rule 902. (1) The commission shall make distributions of 60% of the fund based upon the amount in the fund as of March 31 and September 30.

(2) The commission shall conduct an annual registration of MCOLES licensed law enforcement officers to determine the per capita basis for the distribution. The registration shall include each eligible entity designated in section 3(a) of the act. Each eligible entity shall verify the identity and status of each licensed officer and report the number of paid hours actually worked by each full-time and part-time commission licensed officer during the eligible entity's most recent complete calendar year. The verification of employed commission licensed officers shall be made on a form or in a manner prescribed by the commission and completed by the published due date. An eligible entity that does not comply with the submission requirements of this rule shall not be eligible for funding for the pending distribution year.

(3) Payments shall be determined in the following manner:

- (a) Payments to eligible entities receiving a minimum distribution shall be calculated first and deducted from the available revenue.
- (b) Payments to eligible entities receiving a per capita distribution shall be calculated from the balance of the 60% funds using the total number of FTEs from the eligible entities as determined under the provisions of section 3(a) of the act.
- (4) The eligible entity shall affirmatively verify on the application compliance with the provisions of the act and rules, including the prohibition against supplanting. The commission may deny 1 or both payments to an

eligible entity during a distribution year based upon the eligible entity's compliance with the provisions of section 3(a) of the act and these rules.

R 18.14903 Law enforcement distribution funds; restrictions.

Rule 903. Funds distributed under the authority of section 3(a) of the act shall be expended only for direct costs of in-service criminal justice training of commission licensed law enforcement officers. Only the following expenses are allowable, unless otherwise restricted by the commission:

(a) The hourly salaries of instructors for the actual time spent preparing and presenting training, subject to the supplanting restrictions of the act.

(b) The actual cost of purchasing or leasing training materials used to assist trainees in understanding in-service training topics. The cost may include either the purchase price or salaries and materials expended in creating training materials.

(c) The reasonable rental cost or the purchase price of equipment used during in-service training; however, expenditures for purchase shall not be more than a total of 10% of the funds received in any year nor may any single item be more than \$5,000.00, without the prior approval of the commission.

(d) Reasonable rental costs for the use of training facilities for in-service training, if facilities owned or occupied by an eligible entity are either not available or are inappropriate.

(e) A flat rate or tuition paid to a contractual training provider hired by an eligible entity. The payment shall be in compliance with policies established by the commission.

(f) Compact disks (CDs), digital versatile disks (DVDs), videotapes, web-based programs or other such instructional media that are based upon passive or interactive learning.

(g) Automated firearms training systems that simulate deadly force decision-making circumstances.

(h) Training outside Michigan or training provided by a vendor from outside Michigan, if the recipient has determined that similar training is not available in Michigan or that a Michigan vendor is not available. If an eligible entity chooses to use out-of-state training or an out-of-state vendor, then the entity shall request authorization from the commission, in writing, in advance, and in a manner prescribed by the commission.

(i) The commission may establish reasonable caps on allowable costs.

R 18.14904 Accounting and audit requirements; sanctions for noncompliance.

Rule 904. A recipient of funds under section 3(a) or (b) of the act shall comply with the following accounting and audit requirements:

(a) Account for justice training fund revenues and expenditures separate from other funding sources.

(b) Maintain records documenting financial transactions and program activities according to generally accepted accounting principles, permit program and fiscal inspections, and cooperate with any audit required or authorized by the commission.

(c) The commission may conduct an audit, at will, of justice training fund revenues and expenditures of any agency receiving justice training funds. The commission shall pay for the audit.

(d) If the commission determines that justice training funds were not spent in compliance with commission requirements, then the recipient agency shall be ineligible to receive commission funds until the commission is satisfied that the recipient agency complies with commission requirements.

R 18.14905 Distribution of fund balance through competitive grant process.

Rule 905. (1) The commission shall annually make a distribution of the balance of the fund to state and local agencies pursuant to the provisions of section 3(b) of the act.

(2) Agencies shall submit applications for grant funding to the commission on the forms and in the manner prescribed by the commission. The completed application shall contain all of the required information.

(3) Application forms, requirements, instructions, and a timetable for submission are available at the Michigan Commission on Law Enforcement Standards, 7426 North Canal Road, Lansing, Michigan 48913.

(4) A grantee may request a time extension of a grant contract. The extension may not be more than 1 year beyond the end date of the initial contract. At the conclusion of a contract, a grantee shall return any unexpended balances to the Michigan justice training fund or the balance of the obligated funds shall be liquidated for future distribution in accordance with the purposes described in section 3(b) of the act.

(5) A grantee shall notify the commission in writing of funded training programs before the program begins. A grantee shall permit commission members or staff to monitor training programs without charge to the commission.

R 18.14906 Restrictions on grant funds.

Rule 906. (1) Funds distributed under the provisions of section 3(b) of the act are restricted as follows:

- (a) Funds may be expended for any of the following:
 - (i) The purchase or lease of training materials or equipment that is used exclusively for the direct delivery of in-service training.
 - (ii) Instructional preparation and development time and compensation as established by the commission.
 - (iii) Salaries of instructors or developers employed by the grant recipient at the instructor's or developer's regular hourly personnel rate.
 - (iv) Out-of-state travel for training or an out-of-state vendor presenting in Michigan with the prior approval of the commission. An out-of-state vendor shall be registered with the commission before the expenditure of grant funds.
 - (v) Consultant fees at an hourly rate established by the commission.
- (b) Funds shall not be expended for any of the following:
 - (i) Duplication of compensation to instructors or staff.
 - (ii) Consultant fees for travel time.
 - (iii) A consultant to act as an on-site coordinator.
 - (iv) Overhead or operating costs as a percentage of the total grant request.
 - (v) A request that is for 100% equipment acquisition.
 - (vi) Construction of a firearms range or for the purchase of a firearm training system that simulates deadly force decision-making circumstances.

(2) The commission may approve a multiyear training project conceptually if an extended time frame is determined by the commission to be appropriate. However, the grant applicant shall annually compete for funding and a multiyear project shall be awarded as annual grants.

(3) The commission shall interact only with an applicant agency on questions related to a grant application.

(4) A current or former commission member shall not be paid with grant funds to participate in a commission-funded program that was awarded while the commission member held office; however, a member may be reimbursed for actual expenses.

R 18.14907 Nondiscrimination.

Rule 907. (1) A government unit receiving money distributed under the act and any person or contractor performing services funded by such money shall not discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment; or a matter directly or indirectly related to employment because of race, color, religion, national origin, age, sex, height, weight, or marital status in violation of 1976 PA 453, MCL 37.2101.

(2) A government unit receiving money distributed under the act and any person or contractor performing services funded by such money shall not discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment; or a matter directly or indirectly related to employment because of a disability or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position in violation of 1976 PA 220, MCL 37.1101.

(3) Upon certification of the Michigan civil rights commission that a violation of subrule (1) or (2) of this

rule has occurred, a government unit's right to receive money under the act may be suspended, terminated, or conditioned in any appropriate way that is consistent with the circumstances of the case.

R 18.14908 Compliance with rules.

Rule 908. Failure to comply with the provisions of these rules may result in the denial of funds by the commission.

R 18.14909 Travel regulations.

Rule 909. Allowable expenses for travel shall conform to the rates and conditions approved by the commission. The approved rates shall not exceed the approved travel rates for state of Michigan civil service employees.

R 18.14910 Requirements; registration of courses; reporting training and expenditures.

Rule 910. (1) Justice training funds may be expended only for in-service training courses that are registered, pursuant to R 28.14501, et seq., in the MCOLES information and tracking network.

(2) An expenditure of justice training funds shall be reported to the commission, consistent with R 28.14501, et seq., as follows:

(a) Attendance and all associated costs for training funded in whole or part with justice training funds, except as provided in subrule (2)(b) of this rule.

(b) Expenditures solely for equipment or supplies in support of training shall be reported separately.

PUBLIC SAFETY OFFICERS BENEFIT ACT
Act 46 of 2004

AN ACT to provide compensation to dependents of public safety officers who are killed or who are permanently and totally disabled in the line of duty; to create the public safety officers benefit fund; to prescribe the duties and responsibilities of certain state officers; and to make an appropriation.

History: 2004, Act 46, Eff. Oct. 1, 2003.

Compiler's note: Enacting section 1 of Act 46 of 2004 provides "This act is retroactive and is effective October 1, 2003."

The People of the State of Michigan enact:

28.631 Short title.

Sec. 1. This act shall be known as the "public safety officers benefit act".

28.632 Definitions.

Sec. 2. As used in this act:

(a) "Commission" means the commission on law enforcement standards created under the commission on law enforcement standards act, 1965 PA 203, MCL 28.601 to 28.616.

(b) "Dependent" means any individual who was substantially reliant for support upon the income of the deceased public safety officer.

(c) "Direct and proximate" means that the antecedent event is a substantial factor in the result.

(d) "Firefighter" means a regularly employed member of a fire department of a city, county, township, village, state university, or community college or a member of the department of natural resources who is employed to fight fires. Firefighter includes a volunteer member of a fire department.

(e) "Law enforcement officer" means an individual involved in crime and juvenile delinquency control or reduction or enforcement of the criminal law. Law enforcement officer includes police, corrections, probation, parole, bailiffs, or other similar court officers.

(f) "Line of duty" means either of the following:

(i) Any action which an officer whose primary function is crime control or reduction, enforcement of the criminal law, or suppression of fires is obligated or authorized by rule, regulations, condition of employment or service, or law to perform, including those social, ceremonial, or athletic functions to which the officer is assigned, or for which the officer is compensated, by the public agency he or she serves. For other officers, line of duty means any action the officer is so obligated or authorized to perform in the course or controlling or reducing crime, enforcing the criminal law, or suppressing fires.

(ii) Any action which an officially recognized or designated public employee member of a rescue squad or ambulance crew is obligated or authorized by rule, regulation, condition of employment or service, or law to perform.

(g) "Member of a rescue squad or ambulance crew" means an officially recognized or designated employee or volunteer member of a rescue squad or ambulance crew.

(h) "Permanent and total disability" means medically determinable consequences of a catastrophic, line-of-duty injury that permanently prevent a former public safety officer from performing any gainful work.

(i) "Public safety officer" means any individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, firefighter, rescue squad member, or ambulance crew member.

(j) "Surviving spouse" means the husband or wife of the deceased officer at the time of the officer's death, and includes a spouse living apart from the officer at the time of the officer's death for any reason.

28.633 Public safety officers benefit fund; creation; disposition and investment of funds; lapse; expenditures; rules.

Sec. 3. (1) The public safety officers benefit fund is created within the state treasury.

(2) The state treasurer may receive money or other assets from any source for deposit into the fund. The state treasurer shall direct the investment of the fund. The state treasurer shall credit to the fund interest and earnings from fund investments.

(3) Money in the fund at the close of the fiscal year shall remain in the fund and shall not lapse to the general fund.

(4) The commission shall expend money from the fund, upon appropriation, only to carry out the purposes of this act.

(5) The commission shall promulgate rules pursuant to the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328, that prescribe standards and rules for the distribution of benefits commensurate with the purpose of this act.

28.634 Death or disability of public safety officer; benefit; amount; additional benefit.

Sec. 4. (1) If a public safety officer dies or is permanently and totally disabled as the direct and proximate result of a personal injury sustained in the line of duty, the state shall pay a benefit of \$25,000.00 to 1 of the following:

(a) If the deceased public safety officer leaves a surviving spouse, to that surviving spouse.

(b) If the deceased public safety officer does not leave a surviving spouse, to his or her dependents.

(c) If the public safety officer does not leave a surviving spouse or any surviving dependents, payment shall be made to the estate of the deceased public safety officer.

(d) If the public safety officer is permanently and totally disabled, to the spouse, but if there is no spouse, to the dependents, and if there are no dependents, then to the entity providing care to the permanently and totally disabled public safety officer.

(2) The benefit shall be paid in addition to any other benefit that the beneficiary receives due to the death of the public safety officer.

28.635 Interim benefit.

Sec. 5. (1) If it appears to the commission that a benefit will be paid under section 4, and if a showing of need is made, the commission may make an interim benefit payment of not more than \$3,000.00 to the person or entity who would be entitled to receive the full benefit payment.

(2) The amount of an interim benefit payment shall be deducted from the amount of any final benefit paid.

(3) If an interim benefit is paid under this section, but a final benefit in that case is not paid because the death or the permanent and total disability of the public safety officer is determined not to be covered under section 4, the recipient of the interim benefit payment is liable for repayment of that benefit payment.

However, the state may waive its right to repayment of all or part of the interim benefit payment if substantial hardship would result to the recipient.

28.636 Benefit payment; prohibitions.

Sec. 6. A benefit payment shall not be made under this act if any of the following apply:

(a) The personal injury that resulted in death or permanent and total disability was caused by the intentional misconduct of the public safety officer or by his or her intent to bring about the injury.

(b) The public safety officer was voluntarily intoxicated at the time the personal injury occurred.

(c) The public safety officer was performing his or her duties in a grossly negligent manner at the time the personal injury occurred.

(d) The injury was the direct and proximate result of the actions of an individual to whom payment would be made under this act.

28.637 Appropriation; amount.

Sec. 7. One hundred twenty-five thousand dollars is hereby appropriated from the general fund to the public safety officers benefit fund for fiscal year 2003-2004 to pay for the benefits prescribed in this act.

28.638 Payment of benefits; condition.

Sec. 8. The payment of benefits under this act is subject to an appropriation by the legislature of money necessary to make the payment.

**DEPARTMENT OF STATE POLICE
MICHIGAN COMMISSION ON LAW ENFORCEMENT STANDARDS
PUBLIC SAFETY OFFICERS BENEFIT PROGRAM**

Filed with the Secretary of State on December 12, 2005

These rules become effective immediately upon filing with the Secretary of State unless adopted under sections 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the Michigan Commission on Law Enforcement Standards by section 3 of 2004 PA 46 and by section 9 of 1965 PA 380.)

R 28.14951 Definitions.

Rule 1. (1) As used in these rules:

- (a) "Act" means the public safety officers benefit act, 2004 PA 46, MCL 28.631 et seq.
 - (b) "Catastrophic injury" means consequences of an injury that permanently prevent an individual from performing any gainful work.
 - (c) "Child" means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer, who at the time of the public safety officer's death was any of the following:
 - (i) Eighteen years of age or under.
 - (ii) Over 18 years of age and a student.
 - (iii) Over 18 years of age and incapable of self-support because of physical or mental disability.
 - (d) "Dependent" means a child of the deceased public safety officer or other individual who was substantially reliant for support upon the income of the deceased public safety officer.
 - (e) "Gainful work" means work activity that is both substantial work activity and gainful work activity
 - (f) "Gainful work activity" means work activity that is done for pay or profit. Work activity is gainful if it is the kind of work usually done for pay or profit, whether or not a profit is realized or pay is received.
 - (g) "Incapable of self-support because of physical or mental disability" means the individual was receiving supplemental security income benefits from the United States social security administration at the time of the public safety officer's death.
 - (h) "Occupational disease" means a disease which routinely constitutes a special hazard in, or is commonly regarded as, a concomitant of the officer's occupation.
 - (i) "Personal injury" or "injury" means any traumatic injury, as well as diseases which are caused by or result from such an injury, heart attack, or stroke, but not an occupational disease.
 - (j) "Student" means an individual under 23 years of age, who has not completed 4 years of education beyond the high school level and who is regularly pursuing a full-time course of study or training at school or college or university accredited by a Michigan recognized or nationally recognized accrediting agency or body.
 - (k) "Substantial work activity" means work activity that involves doing significant physical or mental activities. Work may be substantial even if it is done on a part-time basis or if the public safety officer does less, gets paid less, or has less responsibility than when he or she was a member of the former employing public safety agency.
 - (l) "Substantially reliant" means the dependent was reliant on the income of the deceased officer for over 1/3 of his or her support.
 - (m) "Traumatic injury" means a wound or a condition of the body caused by external force, including injuries inflicted by bullets, explosives, sharp instruments, blunt objects or other physical blows, chemicals, electricity, climatic conditions, infectious diseases, radiation, and bacteria, but excluding stress and strain.
- (2) Terms defined in the act have the same meanings when used in these rules.

R 28.14952 Claim; forms; deadline.

Rule 2. (1) Claims for benefits under the act shall be submitted on the form or in the manner prescribed by the commission. A claim for a benefit resulting from the death of a public safety officer shall be filed within 1 year after the date of death. A death benefit may be denied for inactivity on the claim, if requested documentation is not provided to the commission by the claimant within a period of 1 year following the initial request. For good cause, the executive director may grant 1 3-month extension of this deadline.

(2) A claim by a permanently and totally disabled public safety officer or on behalf of a survivor of a deceased public safety officer shall be filed within 1 year after the date of death or prerequisite disability certification, unless the time for filing is extended by the executive director for good cause. The withdrawal of a claim, the cancellation of a request for withdrawal, or any notice provided for in these rules, shall be in writing and shall be signed by the claimant or the person legally designated to execute a claim.

(3) A prerequisite certification means either of the following:

(i) The employing agency's official, certified award to the claimant public safety officer of its maximum disability finding and compensation, including the officer's permanent and complete separation from the employing public safety agency as the direct result of an injury in the line of duty.

(ii) If the employing agency does not itself make such disability awards, then an official certified award to the claimant public safety officer by the cognizant judicial, political, or administrative agency or body of its maximum disability finding and compensation, including the officer's permanent and complete separation from the employing public safety agency as the direct result of an injury sustained in the line of duty.

(4) The acceptability of the declaration of an award in subrule (3) of this rule shall be the determination of the commission. The commission may require any of the following before making a final determination on a claim by a permanently and totally disabled public safety officer:

(i) Further investigation of the claim.

(ii) Additional documentation.

(iii) Additional opinions.

R 28.14953 Persons executing claims.

Rule 3. (1) The commission shall determine who is the proper party to execute a claim as follows: The claim shall be executed by the claimant or the claimant's legally designated representative if the claimant is mentally competent and physically able to execute the claim. If the claimant is mentally incompetent or physically unable to execute the claim and is either of the following:

(i) Has a legally appointed guardian, committee, or other representative, then the claim may be executed by such guardian, committee, or other representative.

(ii) Is in the care of an institution, then the claim may be executed by the manager or principal officer of such institution.

(2) For good cause, such as the age or prolonged absence of the claimant, the commission may accept a claim executed by a person other than 1 described in subrule (1) of this rule.

(3) Where the claim is executed by a person other than the claimant, the person shall, at the time of filing the claim or within a reasonable time thereafter, file evidence of the person's authority to execute the claim on behalf of the claimant in accordance with the following:

(a) If the person executing the claim is the legally-appointed guardian, committee, or other legally-designated representative of the claimant, the evidence shall be a certificate executed by the proper official of the court of appointment.

(b) If the person executing the claim is not a legally designated representative, then the evidence shall be a statement describing the person's relationship to the claimant or the extent to which the person has the care of the claimant or the person's position as an officer of the institution of which the claimant is an inmate or patient. The commission may, at any time, require additional evidence to establish the authority of the person to file or

withdraw a claim.

R 28.14954 Reasonable doubt of coverage.

Rule 4. (1) The commission shall resolve any reasonable doubt arising from the circumstances of the officer's death or permanent and total disability in favor of payment of the death or disability benefit.

(2) At all times practicable, the commission shall promptly pay the claimant an interim benefit of \$3,000, upon a request demonstrating need.

R 28.14955 Evidence.

Rule 5. (1) A claimant for a benefit under the act shall submit evidence of eligibility or other material facts as specified in these rules. The commission may require at any time additional evidence to be submitted with regard to entitlement, the right to receive payment, the amount to be paid, or any other material issue.

(2) If a claimant for a benefit under the act and these rules has not submitted evidence or has submitted insufficient evidence of any material issue or fact, then the commission shall inform the claimant what evidence is necessary for a determination and shall request the claimant to submit evidence within a specified reasonable amount of time. The claimant's failure to submit evidence on a material issue or fact as requested by the commission shall be a basis for determining that the claimant fails to satisfy the conditions required to award a benefit.

(3) If a copy of a record, document, or other evidence, or an excerpt of information, is acceptable as evidence in lieu of the original, then the copy or excerpt shall be certified as a true and exact copy or excerpt by the official custodian of the record, or other public official authorized to certify the copy.

R 28.14956 Findings of state, local, and federal agencies; determination.

Rule 6. (1) The commission shall give substantial weight to the evidence and findings of fact from state, local, and federal administrative and investigative agencies. The commission shall request additional assistance or conduct its own investigation when it believes that the existing evidence does not provide the commission with a rational basis for a decision on a material element of eligibility.

(2) If an investigation of a claim does not result in a conclusive eligibility determination, then the commission may wait for and rely upon the eligibility determination of the United States department of justice on the claimant's federal application under 42 U.S.C. § 3796 and 28 C.F.R. § 32.1 to §32.24

R 28.14957 Heart attack or stroke.

Rule 7. (1) If a public safety officer dies as the direct and proximate result of a heart attack or stroke, the officer shall be presumed to have died as the direct and proximate result of a personal injury sustained in the line of duty, if the following apply:

(a) The officer, while on duty, did either of the following:

(i) Engaged in a situation involving nonroutine stressful or strenuous physical law enforcement, fire suppression, rescue, hazardous material response, emergency medical services, prison security, disaster relief, or other emergency response activity.

(ii) Participated in a training exercise that involved nonroutine stressful or strenuous physical activity.

(b) The officer died as a result of a heart attack or stroke suffered in 1 of the following time frames related to an activity described in subrule (1)(a) of this rule:

(i) While engaging or participating in the activity.

(ii) While still on duty after engaging or participating in the activity.

(iii) Not more than 24 hours after engaging or participating in the activity.

(2) For purposes of this rule, nonroutine stressful or strenuous physical activity excludes actions of a clerical, administrative, or nonmanual nature.

(3) The presumption in subrule (1) of this rule shall be overcome by competent medical evidence to the

contrary.

R 28.14958 Death or permanent and total disability; intent.

Rule 8. The commission shall consider at least all of the following factors in determining whether the officer intended to bring about the officer's own death or injury:

- (a) Whether the death or permanent and total disability was caused by insanity, through an uncontrollable impulse or without conscious volition to produce death or injury.
- (b) Whether the officer had a prior history of attempted suicide or attempts to cause physical incapacitation.
- (c) Whether the officer's intent to bring about his or her death or injury was a substantial factor in the officer's death or permanent and total disability.
- (d) The existence of an intervening force or action which would have independently caused the officer's death or permanent and total disability and which would not otherwise prohibit payment of a benefit under the act.

R 28.14959 Voluntary intoxication.

Rule 9 The commission shall apply the following evidentiary factors in cases in which voluntary intoxication is at issue in an officer's death or permanent and total disability.

- (a) The primary factor in determining intoxication at the time the injury occurred, from which death or permanent and total disability resulted, is the blood alcohol level, including a postmortem blood alcohol level in the case of a death.
- (b) A benefit shall be denied if a deceased or permanently and totally disabled public safety officer had a blood alcohol level of 0.04 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine while on duty, unless the commission receives convincing evidence that the provisions of subrule (c) of this rule apply.
- (c) If the intoxicant was taken as a requirement of the duty assignment, benefits shall be denied if the deceased or permanently and totally disabled public safety officer had a blood alcohol level of 0.08 grams or more per 100 milliliters of blood, per 210 liters of breath, or per 67 milliliters of urine.
- (d) If a public safety officer with a blood alcohol level dies as a result of heart attack or a stroke suffered after going off duty, as provided in Rule 28.14957, then the commission may award a benefit if the following apply:
 - (i) Clear and convincing evidence is presented that the intoxicant was consumed after going off duty.
 - (ii) Medical evidence indicates that the intoxicant did not contribute to the heart attack or stroke.

R 28.14960 Relationship of spouse; determination.

Rule 10. (1) Marriage shall be established by 1 or more of the following types of evidence in the following order of preference:

- (a) A copy of the public record of marriage, certified or attested, or by an abstract of the public record, containing sufficient data to identify the parties, the date and place of the marriage, and the number of prior marriages by either party if shown on the official record, issued by the officer having custody of the record or other public official authorized to certify the record, or a certified copy of the religious record of marriage.
- (b) An official report from a public agency as to a marriage which occurred while the officer was employed with the agency.
- (c) An affidavit of the clergyman or magistrate who officiated.
- (d) An original certificate of marriage accompanied by proof of its genuineness and the authority of the person to perform the marriage.
- (e) Affidavits or sworn statements of 2 or more eyewitnesses to the ceremony.
- (f) In the case of the death of a Michigan public safety officer who had a "common law" marriage from a state where "common law" marriages are recognized, the spouse may submit an affidavit or certified statement setting forth all of the facts and circumstances concerning the alleged marriage, the as the agreement between the parties at the beginning of their cohabitation, the period of cohabitation, places and dates of residences, and

whether children were born as the result of the relationship. This evidence may be supplemented by affidavits or certified statements from 2 or more persons who know as the result of personal observation the reputed relationship which existed between the parties to the alleged marriage, including the period of cohabitation, places of residences, whether the parties held themselves out as husband and wife, and whether they were generally accepted as the in the communities in which they lived.

(g) Any other evidence which would reasonably support a belief by the commission that a valid marriage actually existed.

(h) The commission shall not recognize a claimant as a "common law" spouse under R 28.14960(1)(f) unless the previous state of domicile recognized him or her as the spouse of the deceased or permanently and totally disabled officer.

(i) If applicable, certified copies of divorce decrees of previous marriages or death certificates of the former spouses of either party shall be submitted.

R 28.14961 Relationship of child; determination.

Rule 11. (1) In general, a claimant is the child of a public safety officer if the individual's birth certificate shows the officer as the individual's parent.

(2) If the birth certificate does not show the public safety officer as the claimant's parent, then the sufficiency of the evidence shall be determined in accordance with the facts of a particular case. Proof of the relationship may consist of the following:

(a) An acknowledgement in writing signed by the public safety officer.

(b) Evidence that the officer has been identified as the child's parent by a judicial decree ordering the officer to contribute to the child's support or for other purposes.

(c) Any other evidence which reasonably supports a finding of a parent-child relationship, such as any of the following:

(i) A certified copy of the public record of birth or a religious record showing that the officer was the informant and was named as the parent of the child.

(ii) Affidavits or sworn statements of persons who know that the officer accepted the child as his or her own.

(iii) Information obtained from a public agency or public records, such as school or welfare agencies, which shows that with the officer's knowledge the officer was named as the parent of the child.

(3) Except as may be provided in subrule (2) of this rule, evidence of the relationship shall be shown by a certified copy of the decree of adoption and other evidence as may be necessary. In jurisdictions where a petition must be made to the court for release of adoption documents or information, or where the release of such documents or information is prohibited, a revised birth certificate shall be sufficient to establish the fact of adoption.

(4) The relationship of a stepchild to the deceased officer shall be demonstrated by all of the following:

(a) Evidence of the existence of a parent-child relationship between the child and the spouse, which may be evidenced by any of the following:

(i) Evidence of birth to the spouse of the officer as required by subrules (1) and (2) of this rule.

(ii) If adopted by the spouse, evidence of adoption as required by subrule (3) of this rule.

(iii) Other evidence, such as that specified in subrule (2) of this rule, which reasonably supports the existence of a parent-child relationship between the child and the spouse.

(b) Evidence that the stepchild was any of the following:

(i) Living with the officer at the time of the officer's death.

(ii) Dependent for support on the officer at the time of the officer's death, as set forth in R 28.14962.

(iii) In a parent-child relationship, as specified in subrule (2) of this rule, with the officer at the time of the officer's death. and

(c) Evidence of the marriage of the officer and the spouse, as required by R 28.14960.

R 28.14962 Determination of dependency.

Rule 12. (1) To be eligible for a death benefit under the act, a stepchild not living with the deceased officer at the time of the officer's death shall demonstrate that he or she was substantially reliant for support upon the income of the officer.

(2) The claimant stepchild shall demonstrate that he or she was dependent upon the decedent at either the time of the officer's death or at the time of the personal injury that was the substantial factor in the officer's death.

(3) The claimant stepchild shall demonstrate dependency by submitting a signed statement of dependency within a year of the officer's death. This statement shall include all of the following information:

- (a) A list of all sources of income or support for the 12 months preceding the officer's injury or death;
- (b) The amount of income or value of support derived from each source listed.
- (c) The nature of support provided by each source.

(4) Generally, the commission shall consider a stepchild to be "dependent" if he or she was reliant on the income of the deceased officer for over 1/3 of his or her support.

R 28.14963 Representation.

Rule 13. A claimant may be represented in any proceeding before the commission by an attorney or other person authorized to act on behalf of the claimant pursuant to R 28.14953. A contract for a stipulated fee or for a fee on a contingent basis shall not be recognized. An agreement between a representative and a claimant in violation of this rule is void.

R 28.14964 Finding of eligibility or ineligibility; notice to legislature.

Rule 14. (1) Upon making a finding of eligibility, the commission shall notify each claimant of its disposition of his or her claim. In those cases where the commission has found the claimant to be ineligible for a benefit, the commission shall specify the reasons for the finding. The finding shall set forth the findings of fact and conclusions of law supporting the decision. A copy of the decision, together with information as to the right to a hearing and review, shall be mailed to the claimant at his or her last known address.

(2) The commission shall pay eligible claimants in the order in which all necessary documentation is received and the investigation of the claim is concluded.

(3) The commission shall notify the legislature of an unfunded claim or claims, if during a fiscal year, there is 1 or more eligible claimant to whom the commission is unable to pay a benefit because of an insufficient appropriation.

R 28.14965 Request for a hearing.

Rule 15. (1) A claimant may, within 30 days after notification of ineligibility by the commission, request the commission to reconsider its finding of ineligibility. The commission shall provide the claimant the opportunity for a hearing which shall be held within 60 days after the request for reconsideration.

(2) The claimant may waive the hearing and present written evidence to the commission within 60 days after the request. The request for hearing shall be made to the Executive Director, Michigan Commission on Law Enforcement Standards, 7426 North Canal Road, Lansing, Michigan 48913.

(3) If requested, the hearing shall be conducted in a manner consistent with the provisions of the administrative procedures act and commission rules, R 28.14702 to R 28.14704.

(4) A claimant may withdraw his or her request for a hearing at any time before the mailing of the decision by written notice to the hearing officer, or orally by so stating at the hearing. A claimant shall be considered to have abandoned his or her request for a hearing if he or she fails to appear at the time and place set for the hearing, and does not, within 10 days after the time set for the hearing, show good cause for failure to appear.

(5) Payment of any portion of a death or permanent and total disability benefit, except an interim death

benefit, shall not be made until all hearings and reviews which may affect that payment have been completed.

R 28.14966 Payment of benefits; limitations.

Rule 16. (1) As provided in the act, payment of benefits is subject to appropriation by the legislature of money necessary to make the payment.

(2) Claims for benefits shall be paid in the order in which the commission determines the eligibility of the claims.

(3) If the number of eligible claims exceeds the appropriated funds, then the unpaid eligible claims shall be paid when funds are appropriated by the legislature.

DEPARTMENT OF STATE POLICE
MICHIGAN COMMISSION ON LAW ENFORCEMENT STANDARDS
PUBLIC SAFETY OFFICERS BENEFIT PROGRAM

Filed with the Secretary of State on October 15, 2013

These rules become effective immediately upon filing with the Secretary of State unless adopted under section 33, 44, or 45a(6) of 1969 PA 306. Rules adopted under these sections become effective 7 days after filing with the Secretary of State.

(By authority conferred on the Michigan Commission on Law Enforcement Standards by section 3 of 2004 PA 46 and by section 9 of 1965 PA 380, MCL 28.633 and 16.109)

R 28.14965 is rescinded from the Code as follows:

R 28.14965 Rescinded.

November 1, 2012



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